



\$~9

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **O.M.P.(MISC.)(COMM.) 362/2024**

SAIF MOBIN

.....Petitioner

Through: Mr. Nitin Yadav, Adv.

versus

KRISHAN PAL SINGH

.....Respondent

Through:

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

ORDER

%

17.12.2025

1. The present Petition under Section 29A of the Arbitration and Conciliation Act, 1996, has been filed by the Petitioner for extending the mandate of the Arbitrator.
2. The Order dated 24.09.2025 indicates that the Respondent has been served through electronic mode. Ms. Kirti Agarwal, Learned Counsel for the Respondent had appeared on that day stating that she had been instructed by the Respondent to appear in the matter. This indicates that the service has been completed.
3. The present Petition is for extension of mandate of the Arbitrator who had been appointed in ARB.P. 881/2018 by this Court *vide* Order dated 04.04.2019.
4. The material on record reveals that the pleadings were completed on 15.09.2021, and the issues were framed on 13.02.2022. Evidence by way of affidavit was filed by the Petitioner/Claimant on 15.05.2022.
5. An Application under Section 38 of the Arbitration and Conciliation Act, 1996, was filed by the Petitioner/Claimant on 12.02.2024 in the Arbitration proceedings. The Order dated 14.02.2024 indicates that an



application was filed for striking out the defence of the Respondent and the parties were directed to move an application for extension of time.

6. Material on record indicates that the pleadings were completed on 15.09.2021, which means, the period of 12 months came to end on 15.09.2022. There is nothing on record which indicates that from 15.09.2022, the parties have mutually extended the period by further six months.

7. On 15.05.2022, the proceedings before the learned Arbitrator were suspended for payment of the Arbitrator fees.

8. The Petition under Section 29A has only been filed by the Petitioner in May, 2024, i.e., after a lapse of one year from the date of expiry of the period of six months when the mandate was supposed to be mutually extended. No reason is forthcoming as to why there is a delay in filing the present Petition. Rather, *vide* Order dated 14.02.2024, the Learned Arbitrator instructed the parties to file an application for extension of mandate before this Court.

9. The Apex Court in Mohan Lal Fatehpuria v. Bharat Textile & Others, **2025 SCC OnLine SC 2754**. Relevant paragraph of the judgment reads as under:-

“11. The undisputed facts which emerge from the record before us, are that, the sole Arbitrator entered the reference on 20.05.2020 and directed the parties to file the statements of claim and defence. The period of six months prescribed under Section 23(4) of the Act, for completion of pleadings expired on 19.11.2020. The period from 15.03.2020 till 28.02.2022 deserves to be excluded on account of pandemic caused by Covid-19 virus. In view of mandate contained in Section 29A(1) of the Act, the sole Arbitrator was under an obligation to pass an award within a period of one year from 01.03.2022, i.e. on or before 28.02.2023.



However, the sole Arbitrator failed to do so. The parties did not apply for extension of period to pass an award. The sole arbitrator, in view of mandate contained in Section 29A(4) became functus officio.

12. We are conscious of the fact that a two Judge Bench of this Court has interpreted the word 'terminate' in Section 29A(4), while dealing with an issue whether an application for extension of time for passing the arbitral award is maintainable even after the expiry of twelve months or extended six month period, as the case may be. It has been held that on expiry of the initial period of six months and extended period of six months, the Arbitral Tribunal becomes functus officio but not in absolute terms. It has further been held that the termination of arbitral mandate is conditional upon the filing of an application for extension and cannot be treated termination stricto sensu. It has also been held that the legislature by using the word 'terminate' intends to affirm the principle of party autonomy. However, the fact remains that on expiry of initial period or extended period, the arbitrator cannot proceed with the arbitration proceeding and his mandate terminates, subject to an order which may be passed by the Court in a proceeding under Section 29A(4) of the Act.

13. An arbitrator or an Arbitral Tribunal is not always statutory. It is, ordinarily, a forum chosen by the parties for resolution of their disputes. An Arbitral Tribunal with the consent of the parties decides their disputes. In the instant case, as stated supra, the mandate of the sole Arbitrator had terminated on 28.02.2023. When mandate of arbitrator has expired, his continuation is impermissible. Section 29A(6) empowers and obligates the Court to substitute the Arbitrator. In so far as submission of the respondents, that, since the petition filed under Sections 14 and 15 of the Act was rejected on 24.01.2022 by the High Court is concerned, suffice it to say that the Act



provides separate remedies in the circumstances mentioned in Sections 14, 15 and 29A of the Act. In any case, on 24.01.2022, the mandate of the sole arbitrator was not terminated. Therefore, the order dated 24.01.2022 does not have any impact on the decision of the petition under Section 29A of the Act filed by the appellants. The substitution of a sole arbitrator is warranted, when his mandate ceases to exist, to effectuate the object of the Act, which mandates expeditious resolution of the dispute. In view of the statutory scheme and undisputed factual position, we are satisfied that the case warranted the exercise of jurisdiction under Section 29A(6) of the Act. The High Court erred in granting an extension when the mandate of the sole arbitrator had ceased to exist.”

10. The facts in the present case indicates the complete lack of interest of the parties in proceeding ahead with the arbitration. The purpose of filing a petition under Section 29A is to ensure speedy disposal of the arbitration proceedings.

11. The present Petition under Section 29A of the Arbitration and Conciliation Act, 1996, also indicates an absence of sufficient cause for the delay in filing the present Petition for the extension of mandate. No circumstance is forthcoming as to the silence/in-action of the parties for the delay of one year in filing the present Petition.

12. Therefore, this Court is of the opinion that the mandate of the Arbitrator cannot be extended.

13. Accordingly, the Petition stands rejected.

SUBRAMONIUM PRASAD, J

DECEMBER 17, 2025

Prateek