

ORDER SHEET
IN THE HIGH COURT AT CALCUTTA
COMMERCIAL DIVISION
ORIGINAL SIDE

AP-COM/136/2026
BERGER PAINTS INDIA LIMITED
VS
MR. P. S. NARAYANA MURTHY

BEFORE:
The Hon'ble JUSTICE GAURANG KANTH
Date : 11th March, 2026.

Appearance
Mr. Anirban Ray, Sr. Adv.
Mr. Jayanta Sengupta, Adv.
Mr. Snehasis Sen, Adv.
Mr. Soham Sen, Adv.
Mr. Abhishek Banerjee, Adv.
Ms. Mihika Roy, Adv.
...for the petitioner

Mr. Sakya Sen, Sr. Adv.
Mr. Swarnendu Chatterjee, Adv.
Ms. Sormi Dutta, Adv.
...for the respondent

The Court: Affidavit-in-opposition filed by the respondent is taken on record.

The petitioner has filed the present petition under Section 29A of the Arbitration and Conciliation Act, 1996, seeking extension of the mandate of the arbitral tribunal for conclusion of the arbitral proceeding and publication of the arbitral award.

Learned Counsel for the Petitioner submits that the Respondent herein, being the claimant in the arbitral proceedings, invoked arbitration by issuing a notice dated 15.12.2023 in accordance with Section 21 of the Arbitration and Conciliation Act, 1996. Pursuant thereto, the Respondent proposed the name of Justice Ashok Kumar Das Adhikari (Retd.) as the sole arbitrator to adjudicate the disputes between the parties. It is submitted

that the learned Sole Arbitrator conveyed his consent to act as the arbitrator by a letter dated 03.04.2024 and thereafter issued directions by a communication dated 18.04.2024 for convening the first sitting. The first sitting of the Arbitral Tribunal was held on 25.04.2024. During the said sitting, the learned Arbitrator made a disclosure as contemplated under Section 12 of the Arbitration and Conciliation Act, 1996, declaring that he had no interest, financial, business, professional, or otherwise, in the parties or in the subject matter of the dispute which could give rise to any justifiable doubts regarding his independence or impartiality.

Learned Counsel for the Petitioner further submits that the Arbitral Tribunal has, till date, conducted more than 31 sittings and the proceedings have now reached the stage of final arguments. In these circumstances, the learned Counsel for the Petitioner (who is the respondent before the Arbitral Tribunal) seeks extension of the mandate of the Arbitral Tribunal.

Learned Counsel for the Respondent (the Claimant before the Arbitral Tribunal) opposes the present petition and submits that the learned Arbitrator has unduly delayed the arbitral proceedings and has failed to adhere to the timeline prescribed under the Arbitration and Conciliation Act, 1996. It is alleged that the learned Arbitrator has shown bias by granting unnecessary adjournments to the Petitioner. It is further contended that, while granting extensions of time for filing documents and pleadings, the learned Arbitrator has not indicated sufficient reasons in the orders and that such orders reflect non-application of mind while granting adjournments. Though it has also been alleged in the affidavit-in-opposition that the learned Arbitrator failed to furnish a declaration in terms of Section

12 of the Arbitration and Conciliation Act, 1996, the said contention has not been pressed before this Court.

Learned Senior Counsel appearing for the Respondent has relied upon the judgment in ***Rohan Builders (India) Private Limited v. Berger Paints India Limited***, reported in **(2025) 10 SCC**, to contend that while exercising powers under Section 29A of the Act, this Court ought to examine whether the Arbitrator has recorded sufficient grounds and reasons while conducting the proceedings. According to him, it must also be ensured that the learned Arbitrator has not mechanically granted extensions of time to any party, as such conduct may reflect bias or confer an undue advantage upon one of the parties.

In support of the said contention, learned Senior Counsel has referred to the timeline of the proceedings and, in particular, submitted that the Petitioner was granted undue time to file additional documents which, according to the Respondent, ought to have been available to the Petitioner at the stage when the statement of defence was filed. It is contended that the grant of additional time for filing such documents reflects undue indulgence in favour of the Petitioner. It has also been pointed out that the Petitioner was granted extension of time for filing the affidavit of evidence, which, according to the Respondent, amounts to granting an unwarranted favour to the Petitioner.

This Court has considered the arguments advanced by the learned Counsel for the parties and has perused the materials on record.

The power of the Court under Section 29A of the Arbitration and Conciliation Act, 1996 is essentially supervisory and is to be exercised in aid of the arbitral process. While considering an application for extension of the mandate of the Arbitral Tribunal, the Court is not expected to scrutinize every procedural order passed during the course of the arbitral proceedings or to substitute its own view for that of the Tribunal in matters relating to conduct of the proceedings. The limited enquiry before the Court is whether the arbitral proceedings have suffered from any undue, unexplained, or deliberate delay attributable to the Arbitral Tribunal. Section 29A has been enacted with the twin objective of ensuring expeditious completion of arbitration while at the same time preserving the autonomy of the arbitral process and minimizing judicial interference. Therefore, where the proceedings have substantially progressed and there is nothing on record to indicate that the Tribunal has been responsible for any unwarranted delay, the Court would ordinarily lean in favour of extending the mandate of the Arbitral Tribunal so as to enable it to conclude the proceedings and render the arbitral award, rather than disrupting the arbitral process at an advanced stage.

In the present case, the learned Arbitrator entered upon the reference and held the first sitting on 25.04.2024. The Statement of Claim was filed on 30.04.2024. The Petitioner thereafter sought time to file its Statement of Defence along with a counterclaim, which was eventually filed on 06.08.2024. The Rejoinder was filed on 15.08.2024 and taken on record on 22.08.2024. A Sur-Rejoinder was subsequently filed on 20.09.2024, and the parties also filed additional documents thereafter. The Respondent filed its Affidavit of Evidence on 25.01.2025, and the examination-in-chief and

cross-examination of the Respondent's witness were conducted between the 8th and 19th sittings of the Tribunal. Upon completion of one year from the date of completion of pleadings on 22.08.2025, the mandate of the Arbitral Tribunal was, with the consent of the parties, extended by a further period of six months until 22.02.2026. The said extension was recorded in the 21st Minutes of Meeting held on 13.10.2025. Subsequently, the Affidavit of Evidence of the Petitioner's first witness was filed on 03.11.2025 and his examination-in-chief was conducted from the 22nd meeting till the 26th sitting held on 06.12.2025. The Petitioner filed the Affidavit of Evidence of its second witness on 15.12.2025, whose examination-in-chief and cross-examination were conducted during the 27th and 28th sittings held on 20.12.2025. The Affidavit of Evidence of the Petitioner's third and final witness was filed on 19.01.2026 and his evidence was concluded on 01.02.2026. Arguments on behalf of the Respondent commenced on 14.02.2026 but could not be concluded. The next date of hearing has been fixed on 19.03.2026, subject to extension of the mandate of the Arbitral Tribunal by this Court.

In view of the aforesaid facts, it is evident that the arbitral proceedings have substantially progressed and the matter is presently at the stage of final arguments. Nothing has been placed on record to demonstrate that there has been any deliberate or undue delay on the part of the learned Arbitral Tribunal in conducting the proceedings. This Court has also examined the Minutes of the arbitral proceedings in detail, and it does not appear therefrom that any delay in the conduct of the proceedings can be attributed to the learned Sole Arbitrator. On the contrary, the records indicate that the Tribunal has been actively proceeding with the matter and

has conducted several sittings. In such circumstances, this Court is of the view that the mandate of the Arbitral Tribunal deserves to be extended so as to enable the learned Arbitrator to conclude the proceedings and render the award.

Accordingly, the mandate of the learned Sole Arbitrator stands extended for a further period of six months from the date of this order.

The learned Arbitrator is requested to make all endeavours to conclude the proceedings and publish the arbitral award within the extended period.

With the aforesaid observations, the present petition stands disposed of.

(GAURANG KANTH, J.)