2026:MHC:4484

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28-10-2026

CORAM

THE HONOURABLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

A No. 3538 of 2026

1.Ms Rajasthani Marble
Rep by its Partner
A.K.A. Jayanthi,
Wife of AR.K. Arunachalam

Ms.A.K.A.Jayanthi (Deceased)
W/o.AR.K.Arunachalam, Partner

2. AR.K. Arunchalam

3. A Dhanalakshmi

Applicants

Vs

1.Na.K. Kumar,
Managing Partner,
M/s.Rajasthani Marble

2.Na.K.Kumar,
Proprietor
M/s.New Rajasthani Marbles

Respondents

For Applicants: Mr.Harikrishnan.R.

For Respondents: Mr.R.Sreedhar

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This application seeks an extension of the Arbitrator's mandate. In this case, by an order dated 28.03.2022, the Sole Arbitrator was appointed in Arb.O.P. (Com.Div.) No. 73 of 2021. Accordingly, the claimant filed a statement of claim on 23.07.2022. In response, the respondents filed a preliminary objection on 08.09.2022, raising the issue of arbitrability. On 28.01.2023, the learned Sole Arbitrator allowed the application under Section 16 of the Arbitration and Conciliation Act, 1996, holding that the Tribunal lacked jurisdiction and that the prayer for declaration amounted to a pronouncement in rem, and accordingly dismissed the claim as not arbitrable.

2.By an order dated 28.07.2023, C.M.A. No.497 of 2023 filed against the said Order was allowed, and the claim was restored to the Tribunal’s file. On 26.02.2024, the Hon’ble Supreme Court of India also confirmed the order in C.M.A. No.497 of 2023, leaving the question of arbitrability open for decision along with the other questions on merits, to be decided simultaneously in the main arbitration. Thereafter, on 21.06.2024, the respondents filed their statement of defence under Section 23(1), together with a counter claim under Section 23(2-A). At this stage, certain other interlocutory applications seem to have been filed. Thereafter, on 09.06.2025, the learned Arbitrator directed the respondents to file a reply to the application filed under Section 17.

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3.Thereafter, it is contended by the applicants that without recording any formal order forfeiting the right of the applicants to file a reply to the counter claim/rejoinder to the statement of defence, the Arbitrator issued a communication dated 02.08.2025 holding that in the absence of consensus between the parties and since the mandate had expired, the parties should seek a further mandate from this Court and the Arbitrator terminated the proceedings. At this stage, this application is filed before this Court.

4.Mr. R. Harikrishnan, the learned counsel for the applicants, would submit that a combined reading of Section 2(9) read with Section 23(4) of the Arbitration and Conciliation Act, 1996 makes it clear that the time limit fixed under Section 29A would not kick in until the pleadings are complete. In this case, the Sole Arbitrator did not even decide whether the claimant's right to file a reply to the counter-claim was forfeited, nor did the Sole Arbitrator address about the rejoinder. The learned counsel would also rely upon the judgment of this Court in ***M. Rajkumar vs. Union of India***, (2025 SCC Online Madras 623), particularly paragraphs 11 and 12.

5.Per Contra, *Mr R. Sreedhar*, learned counsel for the respondents, submits that the statement of defence and counterclaim were filed soon after the Hon'ble Supreme Court of India dismissed the Special Leave Petition. From that point until the filing of this application and the issuance of the Arbitrator’s

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communication terminating the proceedings, the applicants chose not to file a reply to the counterclaim and instead took the risk of filing interlocutory applications and dragging on the matter. Therefore, it cannot be contended that the time limit under Section 29A has not kicked in. The applicants did not file their rejoinder or reply to the counterclaim; as such, the Arbitrator was right to terminate the mandate.

6.He would submit that normally, the respondents would not have any objection, but in this case, since the delay is solely attributable to the applicants' inaction in not completing the pleadings, this Court should not exercise its discretion to extend the mandate under Section 29A. Learned counsel would rely on the judgment of the Hon'ble Supreme Court of India in ***Rohan Builders (India) Pvt. Limited vs Berger Paints India Limited*** *(2025 10 SCC 802)*.

7.I have considered the rival submissions made on either side and perused the material records of the case.

8.When parties' rights are to be decided by substantive law, we wove in procedural laws, rules of evidence, and practice directions, etc.; they came into being to do justice in a fair and transparent manner. However, at some point in time, the primary stakeholders, the litigants, felt caught in the web of procedure, including multiple appeals, and exercised the autonomy permitted under the law

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to choose Arbitration as a form of dispute resolution. The *raison d'etre* of Arbitration is that an appropriate, trusted neutral tribunal, being the legal or domain expert(s), goes into their grievance, addresses it on the merits, and resolves the dispute, which has a fair chance of being final, within reasonable time and expenses, and with the procedure as less cumbersome as possible, tailor-made to suit the conflict and the parties.

9.This case is also a sad example of how we have again sleepwalked into technicality and procedure, more cumbersome than mainstream adjudication, and the parties have been caught in the web of procedure. Though both sides take extreme positions on whether the time limit would kick in under section 29A, firstly, the Arbitrator did not record a formal order of forfeiture/time extension during the proceedings. However, even though the statement of defence and counterclaim were to be filed as early as 2024, the applicants/claimants did not file their reply to the counterclaim or the rejoinder to the statement of defence.

10.Therefore, though I am not in agreement with the learned counsel for the applicants that the time limit never kicked in on the ground that they chose not to file their pleadings, still, considering the overall facts and circumstances of this case and in order to grant an opportunity to the parties to contest their respective cases on merits so that the conflict is resolved in an appropriate

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manner through arbitration, I am of the view that the mandate can be extended and an opportunity can be granted to the claimants, however, upon payment of costs.

11.In view thereof, this application is ordered on the following terms:

a) The applicants shall pay costs of Rs.25,000/- to the respondents within three weeks from today;

b) Upon the costs being paid, the mandate of the Arbitrator shall stand extended until 30.04.2027;

c) The applicants are permitted to file their rejoinder to the statement of defence and their reply to the counter claim simultaneously;

d) The Arbitrator shall continue the proceedings, and the parties shall co-operate for the expeditious disposal of the matter. Both parties are directed to co-operate for the disposal of the main case as well as the Interlocutory Applications(if they still choose to).

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Neutral Citation:Yes/No

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D.BHARATHA CHAKRAVARTHY J.

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