

(2025) 11 MP CK 1944

In the Madhya Pradesh High Court, Jabalpur Bench

Case No : Arbitration Case No. 136 Of 2025

M/S Aavya Real Estate Ltd

APPELLANT

Vs

M/S Madhya Pradesh Power Generating Company

RESPONDENT

Date of Decision : 21-11-2025

Acts Referred:

High Court Of Madhya Pradesh Rules, 2008 — Rule 30A
Arbitration And Conciliation Act, 1996 — Section 2(1)(e), 11(6), 29A, 29A(4), 29A(5), 29A(6)

Citation : (2025) 11 MP CK 1944

Hon'ble Judges : Vivek Jain, J

Bench : Single Bench

Advocate : Rohit Sohgaura, Anshuman Singh, Virraaj Shankar Jha

Final Decision : Disposed Of

Judgement

Vivek Jain, J

1. The present application has been filed under Section 29-A (4) & (5) of Arbitration and Conciliation Act, 1996 for extending the mandate of Arbitrator.

2. The Arbitrator in question was appointed by this Court in exercise of powers under Section 11(6) of Arbitration and Conciliation Act, 1996 vide order dated 10.01.2020 and first application for extension was dealt with by this Court in AC No.80/2019 in the following manner:-

"Applicant has filed IA No.5176/2024 under Section 29-A(4)(5) of the Arbitration and Conciliation Act read with Rule 30- A of the High Court of the Madhya Pradesh Rules, 2008 for extension of time.

2. Learned counsel appearing for the applicant submitted that sole Arbitrator Hon'ble Shri Justice (Retd.) K.K. Trivedy, Former Judge was appointed vide order dated 10.01.2020 to decide dispute between the parties. Arbitrator entered into the reference on 11.02.2020 and first proceeding was held on 29.02.2020. After commencement of arbitration proceedings, Covid-19 pandemic broke down and

there was complete lock-down. It is submitted that Supreme Court in Suo Moto Writ Petition (Civil) No.03/2020 granted extension of two years from 15.03.2020 to 28.02.2022 in all pending proceedings including arbitration proceedings. Computation of period prescribed under Section 29-A of the Arbitration Act shall be taken from 01.03.2022. Period of one year expired on 25.07.2022. Later on, applicant proceeded in e-auction conducted by Liquidator. Applicant was highest and successful bidder. Letter of Intent and confirmation of sale was issued on dated 12.01.2021. Petitioner company assigned the specified assets in favour of applicant by way of assignment agreement dated 30.06.2021. Applicant entered into the shoes of the petitioner company qua the monetary claim against the respondent which is subject matter of arbitration proceedings. An amendment of claim to include the applicant as co-claimant was also made. Award could not be passed within period of one year, even after excluding relaxation granted by Apex Court due to Covid-19 pandemic. In view of same, parties to the arbitration proceedings consented to extend the period for six month from 24.07.2023. It is submitted that award will be passed in arbitration proceeding soon.

3. Learned counsel appearing for the respondent does not object the aforesaid prayer.

4. Heard the counsel for the parties.

5. Prayer is made for extension of time for six months period from 25.01.2024 to 25.07.2024. Application is filed on 23.02.2024 to extend the time.

6. Considering the aforesaid facts, three months further time is granted from today i.e. up to 02.08.2024.

7. Arbitrator is requested to conclude the arbitration proceeding to pass award within three months.

8. With aforesaid direction, IA No.5176/2024 for extension of time, is disposed off."

3. Thereafter, the proceedings were finally disposed of in view of the subsequent judgment of the Hon'ble Apex Court vide order dated 27.08.2024 (Annexure A-7) in the following manner:-

"Counsel appearing for the applicant placed reliance on the judgment passed by the Apex Court in Chief Engineer (NH) PW (Roads) Vs. M/s BSC and C and C JV-SLP No. 10544/2024 dated 13.5.2024. Operational paragraphs of said judgment are quoted as under:-

"The power under sub-section (4) of Section 29A of the Arbitration Act vests in the Court as defined in Section 2(1)(e) of the Arbitration Act. It is the principal Civil Court of original jurisdiction in a district which includes a High Court provided the High Court has ordinary original civil jurisdiction.

In this case, the High Court does not have the ordinary original civil jurisdiction. The power under sub-section (6) of Section 29A is only a consequential power

vesting in the Court which is empowered to extend the time. If the Court finds that the cause of delay is one or all of the arbitrators, while extending the time, the Court has power to replace and substitute the Arbitrator (s). The said power has to be exercised by the Court which is empowered to extend the time as provided in sub-section (4) of Section 29A of the Arbitration Act."

2. Placing reliance on the said judgment, counsel appearing for the applicant submitted that power under sub section 4 of Section 29A of the Arbitration and Conciliation Act, 1996 vest in the Court as defined in Section 2(1)(e) of the Arbitration and Conciliation Act, 1996. As per said section, it is principal Civil Court of original jurisdiction which will exercise the power. In view of same, counsel appearing for the applicant made a prayer that this petition may be disposed off granting liberty to petitioner to approach Civil Court.

3. Prayer is allowed.

4. Applicant is at liberty to approach principal Civil Court of original jurisdiction for filing an application for extension of time.

5. All issues shall remain open for adjudication before the court.

6. MCC is disposed off with aforesaid liberty"

4. Thereafter the petitioner approached the District Court which extended the mandate of Arbitrator for period of 6 months up to 02.02.2025 and then again an application AC No.15/2025 was filed before this Court which was disposed of on 13.05.2025 extending the mandate of arbitrator for a further period of six months i.e. up to 13.11.2025.

5. Now the petitioner is again before this Court in view of the fact that the proceedings before the Arbitrator have been completed and only final award is required to be passed and pronounced, but Arbitrator has refused to pass the award on the ground that the extended time limit fixed by this Court has come to an end.

6. From perusal of the order sheet of the Arbitrator dated 18.10.2025 it is clear that the final hearing of the case was concluded on 04.01.2025 and thereafter there was ill health of the Arbitrator and his wife on account of which he was unable to pass award and now the parties are before this Court seeking further extension.

7. The counsel for respondent herein, on instructions, has not objected to extension of time for a reasonable period.

8. In view of the fact that the case has already been finally heard by the Arbitrator and only award is required to be passed and pronounced, therefore looking to the reasons assigned in the application and to save parties from going through the proceedings afresh, this Court is inclined to extend the mandate of Arbitrator by further period of 3 months from today with clear understanding to the parties to endeavour to cooperate with the Arbitrator to decide the matter

within this period, and that no further extension shall be granted on any ground. The application stands disposed off.