

(2024) 05 SIK CK 0071

In the Sikkim High Court

Case No : IA No. 02 Of 2024 Arising Out Of Arbitration Petition No. 01 Of 2022

M/S Mahabir Prasad Agarwala

APPELLANT

Vs

Union Of India And Ors.

RESPONDENT

Date of Decision : 28-05-2024

Acts Referred:

Arbitration And Conciliation Act, 1996 — Section 29A, 29A(4), 29A(5)

Citation : (2024) 05 SIK CK 0071

Hon'ble Judges : Biswanath Somadder, CJ

Bench : Single Bench

Advocate : Pritima Sunam, Pema Dechen Bhutia, Sangita Pradhan, Purnima Subba, Natasha Pradhan

Final Decision : Disposed Of

Judgement

Biswanath Somadder, CJ

This is an application filed by M/s Mahabir Prasad Agarwala, under section 29A of the Arbitration and Conciliation Act, 1996, seeking extension of the mandate of the Arbitrator, which is due to expire on 30th May, 2024.

For the purpose of granting extension of time for the Arbitrator to make his award, one has to — at first — look at sub-section (4) of section 29A of the Arbitration and Conciliation Act, 1996, which reads as follows:-

"29A. Time limit for arbitral award.—.....

(4) If the award is not made within the period specified in sub-section (1) or the extended period specified under sub-section (3) , the mandate of the arbitrator(s) shall terminate unless the Court has, either prior to or after the expiry of the period so specified, extended the period:

Provided that while extending the period under this sub-section, if the Court finds that the proceedings have been delayed for the reasons attributable to the arbitral tribunal, then, it may order reduction of fees of arbitrator(s) by not

exceeding five per cent. for each month of such delay.

Provided further that where an application under sub-section (5) is pending, the mandate of the arbitrator shall continue till the disposal of the said application:

Provided also that the arbitrator shall be given an opportunity of being heard before the fees is reduced.

.....”

It is, therefore, evident that the Court has power to extend the time limit for an arbitral award to be made in terms of sub-section (4) of section 29A of the Arbitration and Conciliation Act, 1996 (as quoted above). However, such extension of time can be granted only for sufficient cause and on such terms and conditions as may be imposed by the Court. This is clear from a plain reading of sub-section (5) of section 29A of the Arbitration and Conciliation Act, 1996, which reads as follows:-

“29A. Time limit for arbitral award.--

(5) The extension of period referred to in sub-section (4) may be on the application of any of the parties and may be granted only for sufficient cause and on such terms and conditions as may be imposed by the Court.

.....”

In the facts of the instant case, the grounds for seeking extension of the mandate of the learned Arbitrator has been recorded in the 41st sitting held on 29th April, 2024, before the learned Arbitrator.

Upon perusing the same, it appears that arguments have already commenced and the parties would require at least two weeks’ time to file the written notes of arguments and thereafter steps would be taken by the learned Arbitrator for making and publishing the award.

This Court is of the view that although the reasons which appear in the minutes of the 41st sitting held on 29th April, 2024, before the learned Arbitrator reflects sufficient cause shown for the purpose of the Court granting extension of time for the learned Arbitrator to make an award in respect of Arbitration Petition No. 01 of 2022; in the facts of the case, three months from date will be sufficient time for the proceedings before the learned Arbitrator to be concluded and for making of the award.

This Court, therefore, grants three months further time from date to enable the learned Arbitrator to make his award in the meanwhile.

The application, being I.A. No. 02 of 2024, is accordingly disposed of.