

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (C) No(s). 10544/2024

(Arising out of impugned final judgment and order dated 22-04-2024 in CRP No. 2/2024 passed by the High Court of Meghalaya at Shillong)

CHIEF ENGINEER (NH) PWD (ROADS)

Petitioner(s)

VERSUS

M/S BSC & C and C JV

Respondent(s)

(FOR ADMISSION)

Date : 13-05-2024 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ABHAY S. OKA
HON'BLE MR. JUSTICE UJJAL BHUYAN

For Petitioner(s) Mr. Amit Kumar, Adv. General, Sr. Adv.
Mr. Aditya Shankar Pandey, Adv.
Mr. Himanshu Sehrawat, Adv.
Mrs. Rekha Bakshi, Adv.
Mr. Avijit Mani Tripathi, AOR

For Respondent(s) Mr. Gourab Banerji, Sr. Adv.
Mr. Abhinav Raghuvanshi, AOR
Mr. Anshuman Pande, Adv.
Mr. Ranjit Prakash, Adv.
Ms. Sanya Gangar, Adv.

UPON hearing the counsel the Court made the following
O R D E R

Heard the learned senior counsel appearing for the petitioner.
Section 29A of the Arbitration and Conciliation Act, 1996 (for short, "the Arbitration Act") reads thus:

"29A. Time limit for arbitral award.-(1) The award in matters other than international commercial arbitration shall be made by the arbitral tribunal within a period of twelve months from the date of completion of pleadings under sub-section (4) of section 23.

Provided that the award in the matter of international commercial arbitration may be made as

expeditiously as possible and endeavour may be made to dispose off the matter within a period of twelve months from the date of completion of pleadings under sub-section (4) of section 23.

(2) If the award is made within a period of six months from the date the arbitral tribunal enters upon the reference, the arbitral tribunal shall be entitled to receive such amount of additional fees as the parties may agree.

(3) The parties may, by consent, extend the period specified in sub-section (1) for making award for a further period not exceeding six months.

(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.

(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.

(6) While extending the period referred to in sub-section (4), it shall be open to the Court to substitute one or all of the arbitrators and if one or all of the arbitrators are substituted, the arbitral proceedings shall continue from the stage already reached and on the basis of the evidence and material already on record, and the arbitrator(s) appointed under this section shall be deemed to have received the said evidence and material.

(7) In the event of arbitrator(s) being appointed under this section, the arbitral tribunal thus reconstituted shall be deemed to be in continuation of the previously appointed arbitral tribunal.

(8) It shall be open to the Court to impose actual or exemplary costs upon any of the parties under this section.

(9) An application filed under sub-section (5) shall be disposed of by the Court as expeditiously as possible and endeavour shall be made to dispose of the matter within a period of sixty days from the date of service of notice on the opposite party."

(underlines supplied)

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.

Hence, there is no merit in the Special Leave Petition. The same is, accordingly, dismissed.

Pending application(s), if any, shall stand disposed of accordingly.

(ASHISH KONDLE)
COURT MASTER (SH)

(AVGV RAMU)
COURT MASTER (NSH)