



A.No.101 of 2025

Application No.101 of 2025

ABDUL QUDDHOSE, J.

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M/s.Powergear Limited,
Chennai.

.. Applicant

Vs.

M/s.Anu Consultants,
Hyderabad.

.. Respondent

This application has been filed under Section 29A of the Arbitration and Conciliation Act, 1996 (in short “the Act”), seeking for extension of the mandate of the learned Arbitrator by extending another period of six months from 05.01.2025.

2. The following reasons have been given by the applicant for filing this application:-

i) The proceedings before the learned Arbitrator had commenced on 02.09.2021. The applicant had filed their claim statement on 24.09.2021. The respondent had filed their statement of defense on 26.10.2021 and the applicant had filed their rejoinder on 23.11.2021. Therefore, the time limit for passing the arbitral award commenced from the said date.



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ii) The applicant had addressed an email to the learned Arbitrator requesting to commence the proceedings on 15.11.2025.

iii) The learned Arbitrator, vide email dated 21.11.2023, directed the applicant to file necessary application before this Court seeking for extension of the Arbitrator's mandate under Section 29A(4) of the Act.

iv) The applicant, accordingly, filed an application before this Court in A.No.6776 of 2023 under Section 29A(4) of the Act seeking extension of the Arbitrator's mandate. The said application was allowed by this Court vide its order dated 04.01.2024, extending the mandate of the learned Arbitrator by a period of one year.

v) Subsequent to the aforesaid order passed by this Court, the applicant had addressed an email to the learned Arbitrator on 11.01.2024 requesting to fix the hearing dates.

vi) According to the applicant, there was no response from the respondent to proceed with the arbitration.

vii) The learned Arbitrator had addressed an email to all the parties fixing the date of hearing and further directed the applicant to serve notice on the respondent. In furtherance of the same, the applicant had sent a notice to the respondent and his counsel informing them of the



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order of extension and the hearing scheduled by the learned Arbitrator.

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An email containing the notice and a copy of the order passed by this Court was also sent to the respondent and his counsel on 29.01.2024. However, the respondent through his counsel sent an email dated 02.02.2024 to the learned Arbitrator informing that he would not be in a position to participate in the arbitration.

viii) The respondent filed an application seeking to recall the order dated 04.01.2024 passed by this Court under Section 29A(4) of the Act granting extension of the Arbitrator's mandate.

ix) The respondent did not participate in the arbitral proceedings before the Arbitrator held on 03.02.2024

x) The next hearing of the arbitration was scheduled on 17.02.2024 and an intimation of the said hearing date was also communicated to the respondent.

xi) Once again, the respondent had addressed an email to the learned Arbitrator on 17.02.2024 stating that the proceedings may be halted until the application filed by the respondent seeking to recall the order dated 04.01.2024 passed by this Court under Section 29A(4) of the Act, is taken up for consideration by this Court.



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xii) On 04.06.2024, the learned Arbitrator issued a communication

to the parties stating that the matter will be proceeded with, since there is no update provided by the respondent with regard to their recall application filed before this Court.

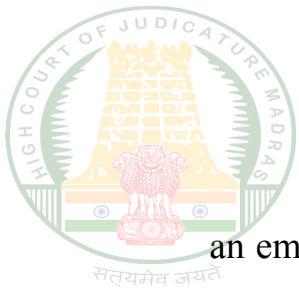
xiii) The learned Arbitrator fixed the next date of hearing in the arbitration as 17.06.2024 and the same was also intimated to the respondent's counsel by the learned Arbitrator.

xiv) On 17.06.2024, the respondent had marked his presence before the Arbitrator, but, stated that their participation in the matter would be without prejudice to their rights and contentions in the pending adjudication to recall the order dated 04.01.2024 passed under Section 29A(4) of the Act.

xv) The learned Arbitrator directed both the parties to file their affidavit of admission/denial of documents and their draft issues by 27.06.2024.

xvi) The applicant was directed to file their proof affidavit on or before 05.07.2024 and accordingly, the proceedings were adjourned to 13.07.2024 for cross-examination of the applicant's witness.

xvii) On 20.06.2024, the counsel for the respondent had addressed

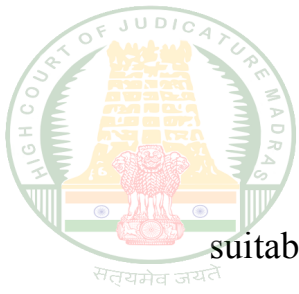


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an email to the learned Arbitrator stating that he would not participate in the subsequent proceedings.

xviii) Therefore, the learned Arbitrator proceeded with the arbitration, after the applicant filed its affidavit of admission/denial of documents and draft issues on 27.06.2024. The proof affidavit of CW1 was filed on 05.07.2024. In the hearing held on 13.07.2024, the proof affidavit of CW1 was taken on record and a list of 25 documents were marked as Exs.C1 to C25. Thereafter, the respondent was given one more opportunity to cross-examine the applicant's witness and the matter was adjourned to 27.07.2024, but, the respondent did not appear on the said date. The learned Arbitrator had fixed hearing for oral arguments on 28.08.2024 and on the said date, at the request of the applicant, the matter was adjourned to 14.09.2024

xix) On 13.09.2024, the counsel for the respondent had addressed an email to the learned Arbitrator and the applicant stating that the respondent's application seeking to recall the order passed by this Court under Section 29A(4) would be listed on 20.09.2024. However, the said application was dismissed by this Court on 23.09.2024. While dismissing the said application, this Court had granted liberty to move



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suitable application for reopening of evidence before the learned Arbitrator.

xx) The matter was called before the Arbitrator once again on 04.11.2024 and the counsel for the applicant accorded consent for reopening of evidence.

xxi) The respondent's counsel cross-examined the applicant/claimant's witness on 23.11.2024, 07.12.2024, 14.12.2024 and 23.12.2024 before the Arbitrator.

xxii) The matter was thereafter adjourned and the respondent was directed to file proof affidavit of RW1 by 06.01.2025. Since the time limit under Section 29A of the Act will expire on 05.01.2025, the Arbitrator directed the applicant to file an application under Section 29A of the Act seeking further extension of the Arbitrator's mandate by a period of six months.

3. Only under the aforementioned circumstances, the applicant has filed this application under Section 29A(5) of the Act seeking extension of the Arbitrator's mandate by another period of six months from 05.01.2025.



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4. Notice was served on the learned counsel appearing for the respondent prior to the filing of this application. This application was filed before this Court on 26.12.2024. Till date, no counter affidavit has been filed by the respondent. However, without a counter affidavit, the learned counsel for the respondent would submit that since the applicant had earlier filed an application under the very same provision and had obtained extension of time for the arbitrator to pronounce the arbitral award, the applicant is barred under law to seek further extension by filing another application under Section 29A(5) of the Act.

5. The learned counsel for the respondent drew the attention of this Court to Section 29A(1)(4)&(5) of the Act and would submit that the present application is not maintainable as the applicant is legally permitted to file only one application seeking extension of time for the arbitral tribunal to pronounce arbitral award.

6. However, as seen from Section 29A of the Act, there is no prohibition for this Court to entertain more than one application under



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Section 29A of the Act seeking extension of time for the arbitrator to pronounce arbitral award. The only criteria that has been specified is that the applicant will have to show sufficient cause for granting extension of time for the arbitral tribunal to pronounce arbitral award. Section 29A of the Act is extracted hereunder:-

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 endeavor may be made to dispose of 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



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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



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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 Courts 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.

7. Section 29A intends to ensure a timely completion of arbitral proceedings while allowing the Courts flexibility to grant extension when warranted. Prescribing a prohibition by the Court restricting the number of times a party can approach seeking for extension of the Arbitrator's mandate, though the statute does not contain such a prohibition, will lead to penal and fatal consequences resulting in grave injustice. A restrictive interpretation of Section 29A will cause disservice to the objects of introducing such a provision by the legislature, which has been introduced only to meet the ends of justice whenever a need arises for extending the mandate of the Arbitrator by giving sufficient reasons. A narrow interpretation of Section 29A should not be given by Courts, which may result in injustice to one of the parties



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to the dispute. If the intention of the legislature was to restrict the filing of Section 29A application under the Act, the legislature would have thought it fit to do so. Section 29A(5) of the Act only stipulates as to how such an application seeking for extension of the mandate of the Arbitrator will have to be considered by the Court and it has not restricted a party to seek for further extension, even though one extension was granted by the Court earlier. The only requirement for a party seeking extension of the Arbitrator's mandate is to show sufficient cause for filing such an application.

8. As seen from the dates and events before the Arbitrator, which have been highlighted in the preceding paragraphs of this order, it is clear that the applicant is not at fault for causing delay in concluding the arbitration. The Arbitrator is also not a cause for the delay in pronouncing the arbitral award. As seen from the dates and events, the respondent has chosen not to participate in the arbitration during certain dates, which have also been recorded by the Arbitrator, and they had also informed the Arbitrator that they will be filing an application seeking to recall the earlier order passed by this Court, through which, this Court



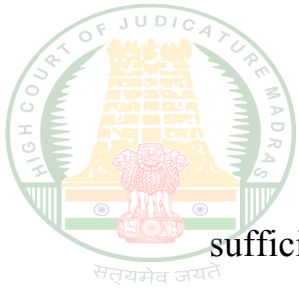
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had granted extension of time for the Arbitrator to pronounce arbitral

award. There was a delay on the part of the respondent to prosecute the said application, which, ultimately, came to be dismissed by this Court.

The order dismissing the respondent's application seeking to recall the earlier order passed by this Court under Section 29A of the Act has also attained finality. As seen from the proceedings recorded by the Arbitrator, which have been highlighted by the applicant in this application, it is clear that only due to the conduct of the respondent in delaying the proceedings, the Arbitrator was unable to pronounce arbitral award within the prescribed time.

9. This Court, after giving due consideration to the contents of the affidavit filed in support of this application, is of the considered view that sufficient cause has been shown by the applicant for extending the mandate of the Arbitrator by another period of six months as prayed for in this application. The objections raised by the learned counsel for the respondent without a counter affidavit are rejected by this Court, since this Court is having the power to entertain more than one application filed under Section 29A(5) of the Act, if the applicant is able to show

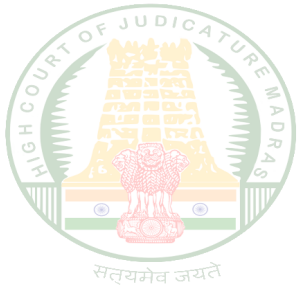


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sufficient cause for seeking extension. Since sufficient cause has been shown by the applicant, this Court will have to necessarily allow the application as prayed for. Accordingly, this application is allowed by extending the mandate of the Arbitrator for a period of six months from the date of receipt of a copy of this order, and the learned Arbitrator is directed to pronounce arbitral award by then.

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Index:yes
Neutral Citation: yes



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