

**IN THE HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR**

Reserved on: 13.07.2026

Pronounced on: 17.07.2026

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*Whether the operative part
or full judgment is
pronounced: **Full***

**CM No.5905/2024
In AA No.28/2016
c/w
WP(C) No.2654/2024**

M/S ALI MOHAMMAD BABA
UT OF J&K AND OTHERS

...PETITIONER(S)/APPELLANT(S)

*Through: - Mr. Z. A. Shah, Sr. Advocate, with
Mr. Hanan Kalwal, Advocate (for applicant in CM
No.5905/2023)
Mr. Abdul Rashid Malik, Sr. AAG, with Mr. Younis,
Assisting Counsel (for petitioners in WP(C)
No.2654/2024)*

Vs.

STATE OF J&K AND ORS.
ALI MOHAMMAD BABA & SONS

...RESPONDENT(S)

*Through: - Mr. Z. A. Shah, Sr. Advocate, with
Mr. Hanan Kalwal, Advocate (for respondent in
WP(C) No.2654/2024).
Mr. Abdul Rashid Malik, Sr. AAG, with Mr. Younis,
Assisting Counsel (for respondents in CM
No.5905/2024)*

CORAM: HON'BLE MR. JUSTICE SANJAY DHAR, JUDGE

JUDGMENT

1. By this common judgment, afore-titled two petitions, one filed by M/S. Ali Mohammad Baba through its partner Manzoor Ahmad Baba under Section 29-A of the Arbitration and Conciliation Act, seeking extension in time for making

of award by the appointed Arbitrator, and the other bearing WP(c) No.2654/2024, filed by the Government of Union Territory of Jammu and Kashmir, challenging order dated 26.07.2024 passed by the learned Sole Arbitrator, are proposed to be disposed of.

2. The facts giving rise to the filing of these two petitions are that various disputes arose between M/S Ali Mohammad Baba (hereinafter “the contractor”) and the Government of Union Territory of Jammu and Kashmir (hereinafter “the employer”), with regard to execution of the contract relating to design, supply, installation, testing and commissioning, including maintenance and operation for three years of street lighting on four way National Highway Bypass all along the central verge from Athwajan to Parimpora on turnkey basis.

3. It seems that the contractor approached this Court by way of Arbitration Application No.28/2016, seeking appointment of Arbitrator. Vide order dated 29.03.2018, this Court directed the employer to nominate an Arbitrator within a period of three weeks. Pursuant to the said order, Engineer Khurshid Ahmad Budoo was appointed as the Sole Arbitrator in terms of Government Order No.221-PDD of 2018 dated 19.10.2018. As per the record of arbitration, the

first introductory proceedings took place before the learned Arbitrator on 24.11.2018. The arbitration proceedings continued up to 13.04.2024 without extension of mandate of the Arbitrator. On the said date, the employer filed an application before the learned Arbitrator seeking termination of arbitral proceedings. After inviting objections from the contractor, the learned Arbitrator passed order dated 26th July, 2024, which is impugned in writ petition bearing WP(C) No.2654/2024. Vide the said order, the learned Arbitrator, after observing that time frame for completion of arbitral proceedings has already expired, kept the arbitral proceedings on hold till remedial measures are taken by the parties but at the same time, the learned Arbitrator decided the plea raised by the employer to the effect that the contractor is not a registered firm, as such, the claim petition on its behalf is not maintainable, by holding that the said issue stands settled because the contractor has submitted a registration certificate as also the authorization letter.

4. The employer has filed writ petition bearing WP(C) No.2654/2024, challenging order dated 26.07.2024 passed by the learned Arbitrator, on the ground that once his mandate had terminated, it was not open to the learned Arbitrator to decide the objection raised by the employer on

the maintainability of the claim petition. It has also been contended that the learned Arbitrator had no jurisdiction to withhold the proceedings and direct the parties to take remedial measures.

5. While the aforesaid writ petition was pending before this Court, the contractor filed an application bearing CM No.5905/2024, seeking extension of time in making of the award by the learned Arbitrator. In the application, the contractor has given the graphic details of the proceedings that have taken place before the learned Arbitrator and has contended that the delay in conclusion of the arbitration proceedings is attributable to the employer and not either to the Arbitrator or to the contractor. It has been submitted that on account of situation arising out of abrogation of Article 370 and COVID-19 pandemic, there was delay in conclusion of the proceedings before the Arbitrator and at this stage the arbitration proceedings are at final stage, inasmuch as the contractor has already submitted its written arguments. On these grounds it has been prayed that the time for making of award by the learned Arbitrator may be extended.

6. The employer has contested the application by filing its objections. In the objections it has been submitted that

employer has been all along cooperating with the arbitration proceedings, but the learned Arbitrator has proceeded in the case at a snail's pace, which has led to expiry of the stipulated period for making the award. It has been contended that the learned Arbitrator has not adhered to the timelines as envisaged under Section 29-A of the Arbitration and Conciliation Act and his mandate has come to an end on 19.10.2019. Therefore, the proceedings undertaken by the learned Arbitrator after the said date are without jurisdiction and void. It has been contended that the application made by the contractor for extension of time to complete the arbitration proceedings is without any substance.

7. Learned Senior Counsel, appearing on behalf of the employer, has, during the course of arguments, also contended that the Arbitrator, in the facts and circumstances of the case, is required to be substituted.

8. I have heard learned Senior Counsels appearing for the parties and perused record of the case including the proceedings conducted by the learned Arbitrator.

9. Before determining the merits of the rival contentions raised by the parties, it is necessary to have a look at the provisions contained in Section 29-A of the Arbitration and

Conciliation Act. As per sub-section (1) of Section 29-A, the award has to be made within a period of 12 months from the date the Arbitral Tribunal enters upon the reference. The Explanation to said sub-section provides that an Arbitral Tribunal shall be deemed to have entered upon the reference on the date on which the Arbitrator has received notice of his appointment in writing. Sub-section (3) of Section 29-A provides that the parties may, by consent, extend the period specified in sub-section (1) for making award for a further period not exceeding six months. As per sub-section (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 Arbitrator shall terminate, unless the Court has, either prior to or after expiry of period so specified, extended the period.

10. Sub-section (5) provides that extension of period may be made by the Court on the application of any of the parties for sufficient cause and on such terms and conditions as may be imposed by the Court. As per sub-section (6), the Court, while extending the period for making the award, is vested with power to substitute one or all of the arbitrators.

11. Turning to the facts of the present case, the learned Arbitrator commenced the arbitration proceedings on

24.11.2018, meaning thereby that he had received the notice of his appointment prior to the said date. In terms of sub-section (1) of Section 29-A, he had to make award within a period of 12 months from the date of entering upon the reference, which in the instant case expired at the most on 24th November, 2019. However, the learned Arbitrator continued to hold the proceedings thereafter and even the parties also continued to participate in the arbitration proceedings without any demur. It is only on 13.04.2024 that the employer filed an application before the learned Arbitrator seeking termination of his mandate on the ground that he had failed to make the award within the stipulated time. Vide impugned order dated 26th July, 2024, the learned Arbitrator decided the said application and kept the proceedings on hold but at the same time, he overruled the objection of the employer with regard to the maintainability of the claim petition.

12. As per sub-section (4) of Section 29-A of the Arbitration and Conciliation Act, once the award is not made within the period specified in sub-section (1) or the extended period, the mandate of the Arbitrator terminates. The learned Arbitrator while passing impugned order dated 26.07.2024, has acknowledged this legal position but at the same time, he

has proceeded to decide the objection raised by the employer with regard to maintainability of the claim petition. The impugned order to the extent of decision on the objection raised by the employer with regard to maintainability of the claim petition is, therefore, without jurisdiction and, as such, deserves to be set aside.

13. The next question that is required to be considered is whether this Court is vested with power to extend the time for making the award even after the termination of mandate of the Arbitrator in terms of sub-section (4) of Section 29-A of the Arbitration and Conciliation Act.

14. Before dealing with the aforesaid issue, it is to be noted that this Court, while dealing with application under Section 29-A of the Arbitration and Conciliation Act, has to exercise its powers as a Commercial Division of the High Court and not as a delegate of Hon'ble the Chief Justice exercising power under Section 11 of the Act because as per the ratio laid down by the Supreme Court in **Jagdeep Chowgule v. Sheel Chowgule and Ors.**, 2026 SCC OnLine SC 124, it is only the Court as defined under Section 2(1)(e) of the Arbitration and Conciliation Act which has the jurisdiction to consider an application under Section 29-A of the said Act and not by the High Court under Section 11 of the Act.

15. The issue as to whether after termination of mandate of the Arbitrator in terms of sub-section (4) of Section 29-A of the Arbitration and Conciliation Act, the Court is vested with power to extend the time in making the award, is no longer *res integra*. The Supreme Court has, in the case of **Rohan Builders (India) Pvt. Ltd. v. Berger Paints India Ltd.**, (2025) 10 SCC 802, while answering the question whether an application for extension of time under Section 29A of the Arbitration and Conciliation Act can be filed after expiry of the period for making the arbitral award, held as under:

“19. Rohan Builders [Rohan Builders (India) (P) Ltd. v. Berger Paints India Ltd., highlights that an interpretation allowing an extension application post the expiry period would encourage rogue litigants and render the timeline for making the award inconsequential. However, it is apposite to note that under Section 29-A(5), the power of the court to extend the time is to be exercised only in cases where there is sufficient cause for such extension. Such extension is not granted mechanically on filing of the application. The judicial discretion of the court in terms of the enactment acts as a deterrent against any party abusing the process of law or espousing a frivolous or vexatious application. Further, the court can impose terms and conditions while granting an extension. Delay, even on the part of the Arbitral Tribunal, is not countenanced. The first proviso to Section 29-A(4) permits a fee reduction of up to five per cent for each month of delay attributable to the Arbitral Tribunal.

20. Lastly, Section 29-A(6) does not support the narrow interpretation of the expression “terminate”. It states that the court — while deciding an extension application under Section 29-A(4) — may substitute one or all the arbitrators. Section 29-A(7) states that if a new arbitrator(s) is appointed, the reconstituted

Arbitral Tribunal shall be deemed to be in continuation of the previously appointed Arbitral Tribunal. This obliterates the need to file a fresh application under Section 11 of the A&C Act for the appointment of an arbitrator. In the event of substitution of arbitrator(s), the arbitral proceedings will commence from the stage already reached. Evidence or material already on record is deemed to be received by the newly constituted tribunal. The aforesaid deeming provisions underscore the legislative intent to effectuate efficiency and expediency in the arbitral process. This intent is also demonstrated in Sections 29-A(8) and 29-A(9). The court in terms of Section 29-A(8) has the power to impose actual or exemplary costs upon the parties. Lastly, Section 29-A(9) stipulates that an application for extension under sub-section (5) must be disposed of expeditiously, with the endeavour of doing so within sixty days from the date of filing.

21. *As per the second proviso to Section 29-A(4), the mandate of the Arbitral Tribunal continues where an application under sub-section (5) is pending. However, an application for extension of period of the Arbitral Tribunal is to be decided by the court in terms of sub-section (5), and sub-sections (6) to (8) may be invoked. The power to extend time period for making of the award vests with the court, and not with the Arbitral Tribunal. Therefore, the Arbitral Tribunal may not pronounce the award till an application under Section 29-A(5) of the A&C Act is sub judice before the court. In a given case, where an award is pronounced during the pendency of an application for extension of period of the Arbitral Tribunal, the court must still decide the application under sub-section (5), and may even, where an award has been pronounced, invoke, when required and justified, sub-sections (6) to (8), or the first and third proviso to Section 29-A(4) of the A&C Act.*

22. *While interpreting a statute, we must strive to give meaningful life to an enactment or rule and avoid cadaveric consequences that result in unworkable or impracticable scenarios. An interpretation which produces an unreasonable result is not to be imputed to a statute if there is some other equally possible construction which is acceptable, practical and pragmatic.*

23. *In view of the above discussion, we hold that an application for extension of the time period for passing an arbitral award under Section 29-A(4) read with Section 29-A(5) is maintainable even after the expiry of the twelve-month or the extended six-month period, as the case may be. The court while adjudicating such extension applications will be guided by the principle of sufficient cause and our observations in para 19 of the judgment.”*

16. From the foregoing analysis of legal position, it is clear that even after expiry of 12 months or the extended period of six months, an application for extension of time period for passing an arbitral award under Section 29-A(4) read with Section 29-A(5) is maintainable. It is also clear that the expression “terminate” as appearing in sub-section (4) of Section 29-A of the Arbitration and Conciliation Act does not admit of a narrow interpretation as has been sought to be given to the said expression by the learned Senior Counsel appearing for the employer. In fact, the Supreme Court has, in **Rohan Builders** case (supra), while interpreting the word “terminate” as appearing in Section 29-A(4) of the Act, made the following observations:

“12. *The word “terminate” in Section 29-A(4) has to be read in the context of the said provision. It is thus trite law that while interpreting the provisions of a statute, it is necessary that the textual interpretation should be matched with the contextual one. The Act must be looked at as a whole and it must be discovered what each section, each clause, each phrase and each word is meant and designed to say as to fit into the scheme of the entire Act. No part of a statute and no word of a statute can be construed in*

isolation.”] It should not be read as an isolated word with a strict dictionary meaning, but rather in conjunction with the surrounding words and expressions which warrant recognition and consideration. This evinces the legislative intent. Secondly, the legislative preference for the term “terminate” over “suspend” is apparent, since the word “suspend” could cause incongruity and a legal conundrum if no party files an application for an extension of time. In such a scenario, the arbitral proceedings would stand suspended *ad infinitum*. Therefore, the legislature by using the word “terminate” intends to affirm the principle of party autonomy. Resultantly, if neither party moves an application for an extension of time for making the award, the arbitration proceedings are terminated. Consequences follow. Clearly, the use of the word “suspension” would have led to infeasible ramifications.

13. The word “terminate” in Section 29-A(4) makes the Arbitral Tribunal *functus officio*, but not in absolute terms. The true purport of the word “terminate” must be understood in light of the syntax of the provision. The absence of a full stop after the word “terminate” is noteworthy. The word “terminate” is followed by the connecting word “unless”, which qualifies the first part with the subsequent limb of the section i.e. “unless the court has, either prior to or after the expiry of the period so specified, extended the period”. The expression “prior to or after the expiry of the period so specified” has to be understood with reference to the power of the court to grant an extension of time.

14. Accordingly, the termination of the arbitral mandate is conditional upon the non-filing of an extension application and cannot be treated as termination *stricto sensu*. The word “terminate” in the contextual form does not reflect termination as if the proceedings have come to a legal and final end, and cannot continue even on filing of an application for extension of time. Therefore, termination under Section 29-A(4) is not set in stone or absolutistic in character.

15. An interpretive process must recognise the goal or purpose of the legal text. Section 29-A

intends to ensure the timely completion of arbitral proceedings while allowing courts the flexibility to grant extensions when warranted. Prescribing a limitation period, unless clearly stated in words or necessary, should not be accepted. Bar by limitation has penal and fatal consequences. This Court in North Eastern Chemicals Industries (P) Ltd. v. Ashok Paper Mill (Assam) Ltd. [North Eastern Chemicals Industries (P) Ltd. v. Ashok Paper Mill (Assam) Ltd., (observed: (SCC p. 812, para 37)

“37. ... When no limitation stands prescribed it would be inappropriate for a Court to supplant the legislature's wisdom by its own and provide a limitation, more so in accordance with what it believes to be the appropriate period.”

16. *Courts should be wary of prescribing a specific period of limitation in cases where the legislature has refrained from doing so. If we give a narrow and restrictive meaning to Section 29-A(4), we would be indulging in judicial legislation by incorporating a negative stipulation of a bar of limitation, which has a severe annulling effect. Such an interpretation will add words to widen the scope of legislation and amount to modification or rewriting of the statute. If the legislature intended such an outcome, it could have stated in the statute that — “the Court may extend the period only if the application is filed before the expiry of the mandate of the arbitrator, not after”. Indeed, there would have been no need to use the phrase “after the expiry of the period” in the statute. In other words, a rigid interpretation would amount to legislating and prescribing a limitation period for filing an application under Section 29-A, when the section does not conspicuously so state. Rather, the expression and intent of the provision are to the contrary.*

17. *In our opinion, a restrictive interpretation would lead to rigour, impediments and complexities. A party would have to rush to the court even when the period of arbitral mandate of twelve months has not expired, notwithstanding the possibility of a consent-based extension of six months under Section 29-A(3). Narrow interpretation presents an additional challenge by*

relegating a faultless party to a fresh reference or appointment of an arbitrator under the A&C Act, thereby impeding arbitration rather than facilitating it.”

17. From the foregoing discussion of the legal position, it can safely be stated that an application under Section 29A(4) of the Arbitration and Conciliation Act seeking extension of period for making the award is maintainable even after the expiry of time period of 12 months or the extended period. It is also clear that if an Arbitrator does not make an award within the time period stipulated under sub-section (1) of Section 29-A of the Act or the extended time, the termination of arbitral mandate would not be absolute, but the proceedings before the Arbitrator can continue if the Court allows an application for extension of time, which may be filed even after the termination of mandate of the Arbitrator in terms of sub-section (4) of Section 29-A of the Arbitration and Conciliation Act.

18. In view of the foregoing legal position, the contention of learned Senior Counsel appearing for the employer that this Court cannot extend the mandate of Arbitrator for making the award as the mandate of the Arbitrator has terminated way back in the year 2019, cannot be accepted. Of course, while considering the application under Section 29-A of the Act filed by the contractor, this Court has to be satisfied that

there are sufficient grounds for extending the time for making the award.

19. In order to determine as to whether there are sufficient grounds for extending the time period for making the award in the instant case, it is necessary to have a look at the minutes of proceedings of the arbitration. A perusal of the same would reveal that immediately after the learned Arbitrator entered upon the reference and the contractor submitted its claim petition on 17.02.2019, he sought time for filing the detailed claim. In the meanwhile, due to abrogation of Article 370 of the Constitution, restrictions were imposed in Kashmir Valley, as a result of which until 1st October, 2019, the arbitration proceedings could not be held. It is on the said date that detailed claim petition was filed by the contractor. The record of the proceedings reveals that counter claim was filed by employer on 18.12.2019 after several adjournments. The record further shows that the proceedings of the arbitration could not take place until 06.07.2020, most probably due to COVID-19 pandemic. On 14.11.2020, rejoinder was filed by the contractor. While the case was put up for admission/denial of documents, it appears that the employer changed the counsel which led to adjournment of the case from time to time. On 18.03.2021,

counsel for the contractor sought time to file supplementary reply. The record of proceedings further shows that on a number of occasions, the counsel appearing for the employer has sought adjournments and while the case was set down for final arguments, the contractor filed his written arguments but the employer failed to file his written arguments until the learned Arbitrator kept the proceedings on hold.

20. From the foregoing sequence of events, it is clear that proceedings in the arbitration have dragged on not on account of the reasons attributable either to the learned Arbitrator or to the contractor. In fact, in the reply filed by the employer, it has been admitted that there has been change of counsels from time to time and there have been occasions when counsel for the employer could not appear. It has been stated in the reply filed by the employer that on June 3rd, 2023, counsel for the employer was absent and the learned Arbitrator proceeded with cross-examination of witnesses of the employer. All these events confirm the contention of the contractor that the delay in conclusion of the proceedings is attributable to employer.

21. There is another aspect of the matter which is required to be noticed. The arbitration proceedings have almost been

concluded, inasmuch as written arguments have already been submitted by the contractor and at this stage, only the employer has to submit its written arguments, whereafter the learned Arbitrator has to make his award. Substitution of the Arbitrator, at this stage of the proceedings, would not be appropriate and it would result in delay in conclusion of the arbitration proceedings and it will also result in putting the parties under more financial burden in the shape of fees of a new Arbitrator. Thus, the prayer of the contractor for extension of time in making the award by the learned Arbitrator deserves to be granted.

22. Accordingly, both the petitions are disposed of in terms of the following directions:

- (I) The time for making of award by the learned Arbitrator is extended from the date his mandate has terminated upto two months from the date on which the parties put in their appearance before the learned Arbitrator pursuant to this judgment.
- (II) Order dated 26.07.2024 passed by the learned Arbitrator, to the extent of overruling the objection of the employer with regard to maintainability of the claim of the contractor, is set aside and the learned Arbitrator is directed to decide the said objection afresh after hearing

the parties without getting influenced by the opinion rendered by him vide the aforesaid impugned order.

23. A copy of this judgment be furnished to learned counsel for the parties as also to the learned arbitrator.

(Sanjay Dhar)
Judge

Srinagar
17.07.2026
“Bhat Altaf-Shergati”

Whether the Judgment is speaking:	Yes
Whether the judgment is reportable:	Yes

