

contracts but the Court for the convenience probably by keeping in mind that the parties being same appointed the same arbitrator. The order of appointment provided for completing the reference within 18 months from filing of the Statement of Claims

(ii) The learned Arbitrator entered into reference and held the first sitting on 28th April, 2023 wherein the directions for filing of the pleadings were given. The Statement of Claim (in short, SOC) was filed on 19th May, 2023 as recorded in the minutes of the 2nd sitting held on 5th August, 2023. The 18 months period as fixed by this Court as the mandate of the Arbitrator at the time of appointment, therefore ended on 18th November, 2024 and as such the mandates stood terminated from 19th November, 2024.

(iii) The learned Arbitrator has recorded this date as the expiry of his mandate in the minutes of the 26th Sitting held on 8th November, 2024. The Claimant (respondent herein) as recorded in the said minutes also agreed to file appropriate application for extension of mandate of the learned Arbitrator. It also appears from the minutes that the rejoinder by the Claimant was filed prior to 28th August, 2024 as recorded in the minutes of the third sitting held on 7th September, 2023.

(iv) The examination of the Claimant's first witness started on 22nd September, 2023 at the 4th sitting and the examination

and cross examination of CW 1 was concluded on 10.02.2024 at the 11th sitting. Records also reveal that the respondent (petitioner herein) moved an application under Section 17 of the 1996 Act on 10th April, 2024 at the 13th sitting. The arguments of the said application was concluded at the 15th sitting held on 27th April, 2024. Minutes annexed to this application also reveals that the parties agreed to have the evidence in the reference in AP 10 of 2022 to be taken after completion of the evidence in AP 9 of 2022.

(v) The Claimant commenced argument of the reference under AP 10 of 2022 before that for the reference in AP 9 of 2022 as will appear from the minutes of the sitting held on 15.12.2024. The argument on behalf of the claimant commenced from 15.12.2024. It also appears from the minutes of the 27th sitting held on 14th November, 2024, the parties placed an order dated 13th November, 2024 passed in A.P 11 of 2024 which arises out of the same contract between the parties wherein the same Arbitrator was appointed to enter into reference and adjudicate the disputes.

(vi) It also appears from the said minutes that by consent of parties dates were fixed beyond 19th November, 2024 which gives rise to an opinion that the parties had by consent, extended the mandates of the learned Arbitrator beyond 19.11.2024 which is permissible under Section 29(3) of the

1996 Act. The maximum period of such extension is, however, for 6 months. Thus going by such principle the mandate of the learned Arbitrator was extended till 18th May, 2025.

(vii) This application is made on 10.04.2025. It will also appear from the minutes of the 27th sitting held on 14.11.2024 that parties jointly submitted that the matter involved in A.P 11 of 2024 be taken along with the matters in A.P 9 of 2022 and A.P 10 of 2022.

(viii) The parties also agreed to file their SOC and Statement of Defence (in short, SOD) but the rejoinder respectively by 22nd November, 2024, 30th November, 2024 and 5th December, 2024.

(ix) It is also recorded in the minutes of the 1st sitting of the reference in A.P 11 of 2024 held on 15.12.2024 that the parties will commence their submission in respect of the reference in A.P 11 of 2024 after completion of the reference in A.P 9 of 2022 and A.P 10 of 2022. The reference in A.P 9 of 2022 and A.P 10 of 2022 is at the final argument stage.

3. The claimant being the respondent in this application has objected to the extension of the mandate of the learned Arbitrator on the ground that this application has been made subsequent to the mandate of the Arbitrator having stood terminated on 19.11.2024. It is the case of the claimant that the appointment order had fixed the time of 18 months to complete the entire arbitration reference. The

learned Arbitrator having failed to do so, is not entitle to an extension of mandate.

4. The claimant has relied upon the judgment of the Hon'ble Supreme Court delivered on 10.12.2025 in Special Leave Petition (Civil) No. 13759 of 2025 with Special Leave Petition (Civil) No. 13779 of 2025 (**Mohan Lal Fathepuria vs. M/s Bharat Textiles and Others**) to contend that the arbitral tribunal due to expiry of the said 18 months period fixed by the order of appointment dated 20.03.2023 became *functus officio* and as such his continuation is impermissible and this application should be rejected. The claimant says that this Court should declare that the mandate of the Sole Arbitrator has stood terminated by operation of law and a substitute Arbitrator should be appointed under the provisions of Section 29 (6) of the 1996 Act.

5. The applicant who is the respondent in the arbitration proceeding on the other hand submits that the parties before the learned Arbitrator on having been pointed out by the learned Arbitrator that his mandate shall stand terminated with the expiry of 24.11.2024 had agreed to make an application for extension of time as recorded in the minutes of the meeting held on 14.11.2024. The carriage of proceeding is with the claimant, however, for reasons best known to the claimant, the claimant did not apply for extension of the mandate of the learned Arbitrator. The applicant, therefore, was compelled to apply for the extension of mandate after waiting for a

reasonable period on a bonafide belief that the application for extension of the mandate of the learned Arbitrator shall be made by the claimant.

6. The applicant has relied upon a two Bench judgment of the Hon'ble Supreme Court passed in Special Leave Petition (Civil) No. 23320 of 2023 (**Rohan Builders (India) Private Limited vs. Berger Paints India Limited**) which was delivered on 12.09.2024 while disposing of the said Special Leave Petition along with few Special Leave Petitions. Relying upon **Berger Paints (supra)**, the applicant says that the Supreme Court after discussing the law relating to extension of mandate of an Arbitrator has clearly held that the Court retains the power to extend the mandate of the learned Arbitrator even after the expiry of the mandate when an application for such extension of mandate is made after the mandate stood expired. The applicant also says that the judgment in **Mohanlal Fatehpuria (supra)** relied upon by the claimant has taken note of the judgment **Rohan Builders (Supra)** and have agreed to the findings therein instead of differing with the same.

7. After hearing the parties and considering the judgments cited at the bar, it is apparent that in **Berger Paints (supra)** the Hon'ble Supreme Court after discussing the entire law under section 29A of the 1996 Act and the subsections thereunder has clearly opined that the mandate of the learned Arbitrator can be extended even after the same stood terminated. In **Mohanlal Fatehpuria (supra)** has concerned with the view in **Rohan Builders (Supra)** to hold that the

mandates of the arbitrator on having being terminated with the efflux of time render the Arbitrator, *functus officio*, but not in strict sense as this mandate can be extended by concerned of parties under the provisions of section 29(3) or 29(4) of the 1996 Act.

8. In the instant case, the learned Arbitrator was appointed by this Court under the provision of the section 11 (6) 1996 Act by granting the learned Arbitrator a time period of 18 months to complete the reference. The order of the appointment does not say that the period of 18 months is the full and final period available to the learned Arbitrator to make and publishes award or that it cannot be extended. It is well settled principle of law that an order should not be read as status. Thus, in absence of any specific stipulation that the time cannot be extended it has to be construed that time can be extended. This brings the issue of extension of mandate within the provisions of section 29 (4) of the 1996 Act.

9. The parties also understood that the mandate of the arbitrator can be extended beyond the period of 18 months as fixed by the Court. It is apparent from the facts recorded hereinabove that the claimant agreed to make an application for extension of time on being pointed out that the mandate of the learned Arbitrator will expire on 19.11.2024. The respondent also did not object to such extension. It will also appear that the parties consented to the extension of mandate of the learned Arbitrator beyond 19.11.2024 by agreeing under the provisions of the first part of section 29(4) of the 1996 Act.

It also appears from the record that the claimant without raising any objection had continued with the argument beyond 19.11.2024 to which the respondent also did not raise any objection. The parties, thus by consent agreed to the extension of mandate.

10. If one takes into account the extension of mandate of the learned Arbitrator by consent of parties then it stood extended for 6 months period from 19.11.2024 which takes us to 18.05.2025. This instant application for extension of mandate has been made on 10.04.2025 i.e. within the six months extended period. That apart and in any event the Hon'ble Supreme Court in the two judgments referred to hereinabove while interpreting the second portion of Section 29(4) of 1996 Act has held that time can be extended by court even after expiry of mandate of the learned Arbitrator. Furthermore, the Hon'ble Supreme Court in the above two judgments have clearly held in favour of supremacy of party auctioning. The parties in the instant case, by consent has extended the mandate of the learned Arbitrator.

11. On the facts and circumstances of the case in hand, my understanding is that the Court retains an inherent power to extend the time period provided in the order of appointment. Furthermore, in view of the provisions of section 29(4) of the 1996 Act as interpreted by the Hon'ble Supreme Court, the mandate of the learned Arbitrator in the instant case can be extended.

12. It also appears from the record that the reference in AP/9/2022 and AP/10/2022 has reached the final argument stage. In case of reference under AP/11/2024 only statements of claim and defence have been filed. The parties have also agreed to complete the arguments in respect of the reference in A.P 10 of 2022 followed by that in A.P 9 of 2022 and then A.P 11 of 2024.

13. In the case in ***Mohan Lal Fatehpuria (supra)*** it appears that the learned Arbitrator had entered into reference on 20.05.2020 but could not conclude the same even as late as 28.02.2023 that is after expiry of 5 years period that too after granting the exclusion of limitation period due to COVID-19 pandemic in terms of the orders passed by the Hon'ble Supreme Court. The facts in the instant case is not that ugly. The learned Arbitrator has proceeded upto the final stage of arguments within 18 months. The arbitration proceedings were held in normal case after granting reasonable extension of time and adjournment on just cause. The section 17 application of the respondent (applicant herein) was also argued and heard in between.

14. In the facts and circumstances as aforesaid, I do not find any reason to terminate mandate of the Arbitrator and appoint a substitute arbitrator in terms of the provision of section 24(6) of the 1996 Act.

15. The mandate of the learned Arbitrator is peremptorily extended till 30th September, 2026. In the event the learned Arbitrator, is unable to make and publish the award within such time, his

mandate shall stand terminated. The time period of the extension is fixed keeping in mind the submission of the respondent that the learned Senior Advocate who was conducting the hearing on behalf of the respondent is no more in the panel and a new advocate has to be engaged. The parties shall cooperate with the learned Arbitrator and complete the arguments by 30th June, 2022, so that a period of 3 months is available to the learned Arbitrator to make and publish the award.

16. AP/2/2025 accordingly disposed of, there shall be, however, no order as to costs.

17. Urgent Photostat certified copy of this judgment, if applied for, shall be granted to the parties as expeditiously as possible, upon compliance of all formalities.

(ARINDAM MUKHERJEE, J.)