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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% ***Date of Decision: 06th August, 2025***

\+ CM(M) 1419/2025 & CM APPL. 46709-46710/2025

ANEJA CONSTRUCTIONS (INDIA) LTD.

.....Petitioner

Through: Mr. Sidhant Goel with Mr. Mohit Goel, Mr. Aditya Maheshwari and Mr. Ishaan Pratap Singh, Advocates.

versus

DOOSAN POWER SYSTEMS INDIA PRIVATE LIMITED AND ANR.

.....Respondent

Through: Mr. Anand Kumar with Ms. Ishita Jain, Mr. Ankit Bhandari and Mr. Ekshat Punwani, Advocates.

CORAM:
HON'BLE MR. JUSTICE MANOJ JAIN

J U D G M E N T *(oral)*

1. Petitioner is claimant before the learned Arbitral Tribunal and takes exception to order dated 11.07.2025 whereby it's request seeking closure of right of respondent to file *Statement of Defence* (SoD) and/or Counter-Claim has not been acceded to.

2. According to claimant, the Arbitral Proceedings commenced in terms of Rule 15 of Rules of Domestic Commercial Arbitration of the Indian Council of Arbitration (in short "ICA" Rules) 2024, by giving a notice of request for arbitration to the Registrar of the ICA, as well as to the Respondent. Such notice of request for arbitration was, *inter alia*, accompanied with the Statement of Claim (SoC).

3. The Registrar, in terms of Rule 18 (a) of ICA Rules sent Statement of Claim (SoC) along with the requisite documents to respondent on

06.12.2024. As per ICA Rules, the respondent had time till 06.01.2025 to file SoD and/or counter claim, if any. Respondent, instead, sought extension of another period of 30 days which was granted by ICA *vide* e-mail dated 07.01.2025.

4. Thus, the respondent was required to file SoD by 05.02.2025.

5. The grievance of the petitioner is to the effect that despite said extension, no SoD was filed and rather respondent sent another request for extension and sought time period of another 12 weeks to file SoD.

6. ICA constituted Arbitral Tribunal and communicated to the parties that 12.04.2025 had been fixed as first date of hearing before the learned Arbitral Tribunal.

7. Admittedly, the Statement of Defence (SoD) and Counter-Claim were, eventually, filed on 14.04.2025.

8. The objection of the petitioner/claimant is to the effect that such period could not have been extended beyond the time-line stipulated under Rule 18(a) of ICA Rules which reads as under:-

> "*Rule 18 (a)*
> *On receipt of the application together with the claim statement, the Registrar shall send to the other Party (Respondent) a copy of the claim statement and attached documents and ask such other party to furnish within thirty days or within any extended date not exceeding thirty days, a defense statement setting out his case accompanied by all documents and information in support of or bearing on the matter.*"

9. Thus, as per claimant, as per said Rule, any such respondent was

entitled to initial period of 30 days, extendable by another period not exceeding thirty days.

10. Learned counsel for claimant also refers to Section 2(8) and Section 25 of the Arbitration and Conciliation Act which read as under:-

> *"(8) Where this Part—*
> *(a) refers to the fact that the parties have agreed or that they may agree,*
> *or*
> *(b) in any other way refers to an agreement of the parties, that agreement shall include any arbitration rules referred to in that agreement."*
> ……
> ……
> *"25. Default of a party.—Unless otherwise agreed by the parties, where, without showing sufficient cause,—*
> *(a) the claimant fails to communicate his statement of claim in accordance with sub-section (1) of section 23, the arbitral tribunal shall terminate the proceedings;*
> *(b) the respondent fails to communicate his statement of defence in accordance with sub-section (1) of section 23, the arbitral tribunal shall continue the proceedings without treating that failure in itself as an admission of the allegations by the claimant 3 [and shall have the discretion to treat the right of the respondent to file such statement of defence as having been forfeited].*
> *(c) a party fails to appear at an oral hearing or to produce documentary evidence, the arbitral tribunal may continue the proceedings and make the arbitral award on the evidence before it."*

11. It is argued that there was never any agreement between the parties for further extension of time and, therefore, learned Tribunal was not competent to grant any further extension and to condone any delay beyond the scope of said Rule 18(a).

12. Since the learned Tribunal has dismissed the abovesaid application of

claimant and has condoned the delay in filing SoD and Counter Claim, the present petition has been filed with the prayer that such SoD and Counter-Claim be directed to be taken off the record, being filed in violation of ICA Rules.

13. Before adverting to the abovesaid aspect, it needs to be stressed that the scope of interference, while dealing with any such petition under Article 227 of Constitution of India, in such type of arbitration matters, is very constricted one.

14. This Court in *Kelvin Air Conditioning & Ventilation System (P) Ltd. v. Triumph Reality (P) Ltd., 2024 SCC OnLine Del 7137* was considering the case of a petitioner who was defending a claim who was aggrieved by the order of learned Arbitrator and the following observations were made with respect to the scope of interference under Article 227 of Constitution of India:-

> *"9. This Court is conscious of the fact that the petitioner has invoked jurisdiction of this Court by filing a petition under Article 227 of Constitution of India. Judicial inference in such type of matters has to be minimal and recourse to Article 227 of the Constitution of India has to be under exceptional circumstances when it is shown that such order is absolutely perverse.*
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> *10. Reference be made to IDFC First Bank Limited Vs. Hitachi MGRM Net Limited: 2023 SCC OnLine Del 4052 whereby Co-ordinate Bench of this Court has enumerated certain circumstances wherein such type of petition can be entertained. Though, in that case, the challenge was in context of dismissal of application filed under Section 16 of Arbitration and Conciliation Act but the observations are equally important in the present context. Relevant portion of aforesaid judgment reads as under: -*

> *"24. While there is no doubt that a remedy under Articles 226 and 227 are available against the orders passed by the Arbitral Tribunal, such challenges are not to be entertained in each and every case and the court has to be "extremely circumspect".*
> *25. Recently, in Surender Kumar Singhal v. Arun Kumar Bhalotia [Surender Kumar Singhal v. Arun Kumar Bhalotia, 2021 SCC OnLine Del 3708], this Court, after considering all the decisions, of the Supreme Court [Deep Industries Ltd. v. ONGC Ltd., (2020) 15 SCC 706; Bhaven Construction v. Sardar Sarovar Narmada Nigam Ltd., (2022) 1 SCC 75 : (2022) 1 SCC (Civ) 374; Punjab State Power Corpn. Ltd. v. EMTA Coal Ltd., (2020) 17 SCC 93 : (2021) 4 SCC (Civ) 341; Virtual Perception OPC (P) Ltd. v. Panasonic India (P) Ltd., 2022 SCC OnLine Del 566 and Ambience Projects & Infrastructure (P) Ltd. v. Neeraj Bindal, 2021 SCC OnLine Del 4023] has laid down circumstances in which such petitions ought to be entertained. The relevant portion of the said judgment reads as under:*

"24. A perusal of the abovementioned decisions, shows that the following principles are well settled, in respect of the scope of interference under Articles 226/227 in challenges to orders by an Arbitral Tribunal including orders passed under Section 16 of the Act:
(i) An Arbitral Tribunal is a tribunal against which a petition under Articles 226/227 would be maintainable.
(ii) The non obstante clause in Section 5 of the Act does not apply in respect of exercise of powers under Article 227 which is a constitutional provision.
(iii) For interference under Articles 226/227, there have to be exceptional circumstances.
(iv) Though interference is permissible, unless and until the order is so perverse that it is patently lacking in inherent jurisdiction, the writ court would not interfere.
(v) Interference is permissible only if the order is completely perverse i.e. that the perversity must stare in the face.
(vi) High Courts ought to discourage litigation which necessarily interfere with the arbitral process.
(vii) Excessive judicial interference in the arbitral process is not encouraged.

> *(viii) It is prudent not to exercise jurisdiction under Articles 226/227.*
> *(ix) The power should be exercised in "exceptional rarity" or if there is, "bad faith" which is shown.*
> *(x) Efficiency of the arbitral process ought not to be allowed to diminish and hence interdicting the arbitral process should be completely avoided."*
> *26. A perusal of the above would show that it is only under exceptional circumstances or when there is bad faith or perversity that writ petitions ought to be entertained."*

15. Thus, clearly, the interference is permissible only where there is bad faith, exceptional rarity, bad faith or the order is absolutely perverse.

16. Nothing of that kind exists here.

17. A careful perusal of the impugned order would rather indicate that the learned Tribunal is of the view that it has power to extend the timelines, in the interest of justice. Observing that the Rules in question were, though, providing some timeline, it held that if found in the interest of justice, the time for completion of pleadings can be extended where the party praying for extension had been able to show sufficient cause for the same. It also observed that the precedents relied upon by the claimant pertained to statutory provisions whereas the timeline in question was in ICA Rules, and not in any specific enactment as such.

18. After taking note of the precedents cited by both the parties, the learned Tribunal dismissed the application of claimant while holding as under: -

> *"17. The Tribunal has heard the arguments by Ld. Counsel for the parties. At the threshold of their arguments Ld. Counsel for the*

parties had submitted that this conundrum may be sent to the Registrar, ICA, for decision. However, the Arbitral Tribunal holds that the contentions regarding extension of time to file SoD/ CC ought not to be relegated to the Registrar since it involves interpretation of the relevant provisions of the Act and the institutional Rules, and it is the Arbitral Tribunal and not the Registrar which possesses the necessary jurisdiction to do so.

18. The ICA Rules, 2024 have been drafted by the ICA for the expeditious and timely disposal of arbitration and ordinarily should be adhered to in order to ensure timely disposal of disputes. However, at the same time the Tribunal is also mindful of the fact that the said rules emanate through the ICA and not through any statutory authority under the Act. The Arbitral Institute has not been delegated any power under the Act and even it had been so, the same would have fallen foul of excessive delegation in the face of a statutory provision to the contrary.

19. The Tribunal is aware of its responsibility to decide and adjudicate the dispute expeditiously. However, the Tribunal is equally aware of its responsibility to ensure that complete justice be done; that despite the statutory mandate of 6 months to complete pleadings, the Tribunal retains the power to extend the timelines in the interest of justice. The decision in Srei Infrastructure Finance Ltd. v. Tuff Drilling Pvt. Ltd., (2018) 11 SCC 470 holds the field in this regard, and applies equally to the Claimant as well as the Respondent. Every judicial or quasi-judicial authority is ever mindful that procedure is the handmaiden of justice.

20. Moreover, the statutory provisions employ the words "not exceeding fifteen days", "not exceeding thirty days", "but not thereafter". These, words are not found in Section 23(4) the Act dealing with the period within which pleadings (SoC and SoD) should be filed, thereby making a very significant departure. Significantly, the ICA Rules also intentionally and justifiably do not use these peremptorily limiting words.

21. Hence, the Tribunal is of the opinion that it is in the interest of justice that the time for completion of pleadings be extended where the party praying for extension has been able to show sufficient cause for the same. Pertinently, Ld. Counsel for the Claimant has not challenged the sufficiency of the grounds on which an extension of time had been prayed for by the Respondent. It would be appropriate to record the SoD/CC has been filed by the Respondent within the extended time granted by the Tribunal."

19. The reasoning as above does not call for any interference, even otherwise.

20. This Court would also vouch that the Rules are meant to guide and not bind.

21. Arbitral Tribunal cannot be reduced to a powerless creature. Whenever it finds that any party was prevented by any sufficient cause, it has ample power to condone the delay in interest of justice, irrespective of the Rules in question which are, even otherwise, more of procedural nature. Need we emphasize, the rules of procedures are merely handmaidens of justice and cannot be permitted to govern and overpower the justice. Moreover, the procedural rules are meant to be interpreted liberally because any narrow or rigid interpretation might render the entire arbitral process redundant.

22. This Court, therefore, does not find any reason to interfere with the impugned order and the petition is, accordingly, dismissed *in limine*.

23. Pending applications stand disposed of in aforesaid terms.

(MANOJ JAIN)
JUDGE

AUGUST 6, 2025/*sw/shs*