

Misc. Arbitration Case (Commercial)– 05/2024
CNR : WBBD17-000006-2024
JO Code : WB01311

Order No –09

Dated :06/08/2024

This day is fixed for hearing of the sec. 34 petition.

The respondent files hazira.

Ld. Counsel for the respondent is also present.

When the matter was called on 10.45 a.m none appeared on behalf of the petitioner. The matter was passed over. At 11.45 a.m Ld. Advocate for the petitioner filed hazira.

Without filing any application for adjournment, Ld. Advocate for the petitioner submitted that she requires further time to prepare herself and accordingly prayed for accommodation.

It transpires from the record that the sec. 34 application was filed on 22/12/2023.

On 05/06/2024 the respondent filed WO and the next date of hearing was fixed on 03/07/2024.

On that day the Ld. Advocate for the petitioner prayed for time.

The same was allowed and two consecutive dates i.e 05/08/2024 & 06/08/2024 were fixed for hearing of the sec. 34 application.

On 05/08/2024 once again Ld. Advocate for the petitioner prayed for time on the ground that she was not ready with the matter.

Prayer was allowed and it was made clear that no further adjournment will be allowed today.

Unfortunately Ld. Advocate for the petitioner once again renewed her prayer for adjournment today.

The prayer has been vehemently opposed by the Ld. Counsel for the respondent.

It is submitted by the Ld. Counsel for the respondent that he has come down all the way from Agartala, Tripura along with his client who is also a resident of Tripura after ascertaining from the Ld. Advocate for the petitioner that hearing will be as per schedule.

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The Ld. Counsel also submitted that if the Court thinks it fit to adjourn the matter, the same should be allowed by imposing heavy cost upon the petitioner, and the respondent should also be adequately compensated.

As already stated the petitioner did not file any application for adjournment.

The oral prayer for adjournment ought to have been outrightly rejected. The petitioner cannot be allowed to proceed with the hearing at his leisure and pleasure.

However as the award which is under challenge involves huge sum of money, the prayer for adjournment is allowed for the ends of justice as last chance.

The petitioner should however be saddled with exemplary cost for unnecessarily seeking adjournment on three consecutive dates.

Accordingly the hearing of the matter stands adjourned subject to payment of cost of Rs. 20,000/-.

The cost is to be paid by the petitioner to the respondent and the same should be paid within two weeks from date.

It is made clear that if the cost is not paid in terms of this order, the petitioner will not be allowed to argue the matter on the next day.

Fix **10/09/2024 & 11/09/2024** for hearing of the sec. 34 application.

After the order is passed it is submitted by the Ld. Advocate for petitioner that an application U/sec. 36(2) of the A& C Act, 1996 has been filed today through e-filing.

The petitioner has produced the physical copy of the application U/sec 36(2).

The same has been registered as IA no. 02 of 2024 dated 06/08/2024.

The Ld. Advocate on -record for the respondent accepts the copy of the said application.

Let the application (IA no. 02 of 2024) be fixed for hearing on 10/09/2024.

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The respondent is at liberty to file WO to the application U/sec 36 (2) in the meantime with advance copy to the Ld. Advocate for the petitioner.

D/C by me

Judge, Commercial Court
Asansol

Judge, Commercial Court
Asansol