

Misc. application U/s 151 CPC for preponment of the case titled as Adesh Kumar Tyagi vs Sub Registrar bearing CS No. 239/2020 pending in the court of Sh. Sunil Rana, ADJ- Central District

13.05.2020

Pr : Sh. Sunil Kumar, advocate for plaintiff.

This is an application U/s 151 CPC moved by the plaintiff for preponement of the case fixed for 19.08.2020 so that the application Under order 39 Rule 1 & 2 CPC can be decided. The application alongwith other documents was filed online on 12.05.2020. The hearing of the same took place today through video conferencing.

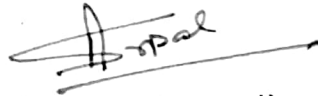
Certain queries have been asked for from the counsel for the plaintiff regarding maintainability of the case of declaration when plaintiffs are the party to the sale deed dated 13.08.2007 and whether the case should not have been for cancellation of the sale deed under Section 30 & 31 of the Specific Relief Act, what amount of the court fees is paid and how the case is within the period of limitation and whether the names of the alleged bonafide purchaser have been given in the plaint as well as whether the plaintiffs are in possession of the suit property or not etc. In para no. 4 of the present application, it is mentioned that defendant no. 4 is instituting fake criminal cases, taking possession from bonafide purchaser, entering into sale agreement with criminal persons etc. but the averments made in this regard are vague and unspecific with no details.

After considering the submissions made by the counsel for plaintiff during video conferencing and keeping all these questions open to be decided later on, I deem it proper to allow this preponement application and now the said case will be fixed for 22.05.2020. The file of this case is not available because of closing of the courts due to lockdown so it is not known to the counsel whether the notice has been served upon the defendants or not



because this case was filed on 07.03.2020 and notice was issued for 23.03.2020 but by that time lockdown started. Hence, it is ordered that notice of this application be issued to all the defendants for 22.05.2020 on PF and dasti process be given to the counsel for the plaintiff. Alongwith notice of the application, the copy of the plaint and other documents be also attached. It will be responsibility of the plaintiff to get the notice served upon the defendants through process sever or through email or whatsapp and other modes including speed post and registered cover.

Ahlmad is directed to prepare the notice after taking the particulars of the defendant from the counsel and hand over dasti process to him. It is further directed that the file of the case be arranged for next date and put up before the court concerned or Duty Judge, if the court is not opened.



(Ashwani Kumar Sarpal)  
District Judge- Commercial Court-05 (Central)/Duty Judge  
13.05.2020

Misc. application in Case bearing No. OMP (Comm). 9/2020 decided on 05.02.2020 titled as Union of India vs M/s N.Kumar Associates

13.05.2020

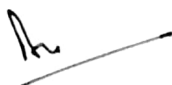
Pr : Sh.Om Prakash, advocate for Petitioner/Union of India.

This is an application U/s 151 CPC moved by the petitioner Union of India for extension of time in the remand back Arbitrator proceedings decided on 05.02.2020. The application alongwith other documents was filed online on 12.05.2020. The hearing of the same took place today through video conferencing. Counsel for the petitioner relied upon decision of Supreme Court dated 06.05.2020 in suo moto writ (Civil) No. 3/2020 as well as decision of Delhi High Court dated 15.04.2020 in case **Bansal Infratech Synergies Ltd. Vs Gail India Ltd.**

It is important to mention here that courts are closed due to nationwide lockdown and only urgent matters are being heard through video conferencing preferably.

An award was passed against petitioner/applicant Union of India on 16.08.2018 which was challenged through objections u/s 34 of Arbitration & Conciliation Act. The objections filed by petitioner Union of India was disposed off by this court on 05.02.2020 and matter was remanded back to Ld. Arbitrator to decide claim No. 4 only afresh. He was given time of three months to decide the award again in respect of claim No. 4.

The record produced by the petitioner point out that petitioner Union of India vide its letter dated 11.03.2020 informed the Ld. Arbitrator about the decision of this court dated 05.02.2020. Ld. Arbitrator, thereafter restarted the proceedings and issued a letter dated 16.03.2020 to the claimant/respondent and given him 10 days time to file the documents and to submit written arguments and copy of the same to petitioner Union of India who was also given time of 10 days to submits its own documents and denial of the claim



submissions.

Record further shows that claimant submitted his documents etc. before the arbitrator on 20.04.2020 and served the copy of the same in the office of the petitioner on 21.04.2020. It is important to mention here that from 24.03.2020, the lockdown has started due to Covid-19 disease in all over India so the petitioner made a request for extension of time before the Arbitrator by moving an application on 28.04.2020. This application was allowed and the Arbitrator vide its letter dated 30.04.2020 given two weeks more time to the petitioner Union of India to submit its response and also asked the petitioner to approach the court for extension of one month more time for publication of the award. The Arbitrator had received the order dated 05.02.2020 from the petitioner on 11.03.2020 and was aware that he had to complete the proceedings within three months i.e. by 11.06.2020.

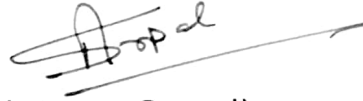
Now an application has been moved by the petitioner Union of India to given extension of time till August 2020 in terms of the letter of the Arbitrator dated 30.04.2020. It is informed during arguments taken place through video conferencing that reply is almost ready and it can be submitted within one day before the Arbitrator. I found certain contents of the present application of extension of time moved by the petitioner not in conformity with the averments made in the letter of the Arbitrator dated 30.04.2020. It is also not disclosed in the present application who was the official with whom the file was lying and it is also not disclosed when that concerned official handed over the file to the counsel or the Sr. Officers for the purpose of preparing the reply. There is no justification why the time till August end is required as prayed in the application when the Arbitrator in his application dated 30.04.2020 addressed to petitioner is asking only for one month time. It, thus, clear from this letter dated 30.04.2020 that the Arbitrator maximum will take one month time to decide the proceedings and even if 1 or 2 days more is given to the petitioner Union of India to submit its response/defence before the Arbitrator, then Arbitrator as per his letter dated 30.04.2020 can decide the proceedings maximum by 15.06.2020 so there is no need to give extension till August end





as prayed for. The counsel for the petitioner is agreed for giving time till 15.06.2020 to the Arbitrator to pass the award.

In view of the above, the present application moved by the petitioner Union of India for extension of time is disposed off. Petitioner is given 2 days more time to submit its defence/documentary evidence before Arbitrator and the Arbitrator is given time till 15.06.2020 to decide the proceedings and pass an award in terms of the direction given in the order dated 05.02.2020. Copy of this order be uploaded on the website and the same be also forwarded to the respondent/claimant, if his email or his whatsapp address is available. The present application alongwith this order be attached with the main file decided on 05.02.2020.



(Ashwani Kumar Sarpal)  
District Judge- Commercial Court-05 (Central)/Duty Judge  
13.05.2020