

(2025) 12 SHI CK 0060
Himachal Pradesh HC
Case No: Arbitration Case No: 380 Of 2025

Neelam Kapoor

APPELLANT

Vs

Competent Authority Land
Acquisition-Cumland Acquisition
Collector-Cum-Sub Divisional
Officer (Civil) And Others

RESPONDENT

Date of Decision: Dec. 4, 2025

Acts Referred:

- Arbitration And Conciliation Act, 1996-Section 11, 23(4), 29(4), 29A, 29A(1), 29A(3), 29A(4), 29A(5), 29A(6), 29A(7), 29A(8), 29A(9)
- National Highways Act, 1956-Section 3G(5)

Hon'ble Judges: Ranjan Sharma, J

Bench: Single Bench

Advocate: Surya Chauhan, S.D. Vasudeva, Shreya Chauhan

Final Decision: Allowed

Judgement

Ranjan Sharma, J

1. Petitioner-Neelam Kapoor has come up before this Court, under Section 29(4) of the Arbitration and Conciliation Act, 1996, seeking following relief(s):-

“That the time limit for completing the Arbitration proceedings in Arbitration Reference case No. NH-154(13/24) titled as Neelam Kapoor v. CALA-cum-SDM Sadar, Mandi pending before the learned Arbitrator under National Highways Authority of India-cum-Divisional Commissioner, Mandi, may kindly be extended for a further period of six months from the date of order which may be passed by this Hon’ble Court.”

FACTUAL MATRIX:

2. Grievance of the petitioner is that the Central Government issued a Notification under the National Highways Act for acquiring the land/ buildings on National Highway-21, on the stretch of land Pathankot-Manali Section, wherein, the land of the petitioner comprised in Khatouni No. 99/124, Khasra No. 1405/57 measuring 00-03-06 bighas (0.013) Khasra No(s). 66/2 situate in Mohal Muhal Bijni/365, Tehsil and District Mandi, Himachal Pradesh was acquired, in terms of the Award No. 9/2022 dated 24.08.2022.

2(i) Feeling dissatisfied against the Award, the petitioner filed a Reference before Learned Arbitrator-cum-Divisional Commissioner, Mandi under Section 3G(5) of the National Highways Act vide Reference No. NH-154 (13/23) In re: Neelam Kapoor versus CALA- cum-SDM Sadar, Mandi. Perusal of the petition indicates that even after the completion of pleadings, Learned Arbitrator could not conclude the proceedings within the prescribed period of 12 months. Thereafter, with consent of the parties, the time for concluding the arbitral proceedings was extended .

2(ii). Material on record indicates that after completion of pleadings, the Issues were framed on 22.10.2024 and the case was listed for evidence on 21.12.2024 but Arbitrator passed an order dated 17.02.2025 [page-15 of the paper book], whereby, the Arbitrator closed the proceedings at the stage of evidence, on the ground, that the period for concluding the arbitral proceedings had expired and therefore, he had no mandate to continue with the same.

2(iii). It is averred that after the passing of the orders dated 17.02.2025, the mandate was extended by seeking judicial intervention of this Court. It is further borne out that the left over evidence was recorded on 07.04.2025 and the written arguments were taken on record and the matter was reserved for order on 09.06.2015 [Page-17 of the paper book]. However, the Learned Arbitrator- cum-Divisional Commissioner, Mandi passed an order on 05.08.2025 Annexure P-1 colly, [referred to as Impugned Order] on the ground, that this mandate stood terminated as the arbitral proceedings could not be completed within the statutory -extended period.

In this backdrop, that the petitioner has come up before this Court, seeking extension of mandate for concluding the arbitral proceedings, under Section 29[A] [4] and [5] of the Arbitration and Conciliation Act.

STAND OF RESPONDENT No.2 [NHAI] :

3. Upon listing of this case today, Ms. Shreya Chauhan, Learned counsel for respondent No.2-National Highway Authority of India, on Instructions, states that keeping in view the intent and object of the arbitral proceedings which have to be given a practical shape so that the rights of the parties fructify by taking the proceedings to logical end coupled with the fact that in similar cases, the Arbitration proceedings originating from the same acquisition notice and the award have been concluded; therefore, she submits that in peculiar fact-situation of this case, no reply is intended to be filed to the present case.

4. Learned State Counsel states that since the contesting respondent is NHAI-Respondent No.2, therefore, no reply is intended to be filed on behalf of Respondents No. 1 and 3- S a e.

5. Heard, Mr. Surya Chauhan, Learned Counsel for the petitioner and Mr. S.D. Vasudeva, Learned Deputy Advocate General and Ms. Shreya Chauhan, Learned Counsel for Respondent No.2-National Highway Authority of India.

STATUTORY PROVISIONS:

6. In order to appreciate the claim of the parties herein, it is necessary to have a recap of the statutory provision of Section 29A of the Arbitration and Conciliation Act, 1996 [hereinafter referred to as 'Act'], reads as under :-

"29A. Time limit for arbitral award -

*(1) The award in matters other than international commercial arbitration shall be made by the arbitral tribunal **within a period of twelve months from the date of completion of pleadings under subsection (4) of section 23:***

Provided that the award in the matter of international commercial arbitration may be made as expeditiously as possible and endeavor may be made to dispose of the matter within a period of twelve months from the date of completion of pleadings under subsection (4) of section 23.

(2) If the award is made within a period of six months from the date the arbitral tribunal enters upon the reference, the arbitral tribunal shall be entitled to receive such amount of additional fees as the parties may agree.

(3) The parties may, by consent, extend the period specified in sub-section(1) for making award for a further period not exceeding six months.

*(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 the arbitrator(s) shall terminate unless the Court has, either prior to or after the expiry of the period so specified, extended the period:***

Provided that while extending the period under this sub-section, if the Court finds that the proceedings have been delayed for the reasons attributable to the arbitral tribunal, then, it may order reduction of fees of arbitrator(s) by not exceeding five per cent for each month of such delay.

Provided further that where an application under sub-section (5) is pending, the mandate of the arbitrator shall continue till the disposal of the said application: Provided also that the arbitrator shall be given an opportunity of being heard before the fees is reduced.

(5) The extension of period referred to in sub-section (4) may be on the application of any of the parties and may be granted only for sufficient cause and on such terms and conditions as may be imposed by the Court.

(6) While extending the period referred to in sub-section (4), it shall be open to the Court to substitute one or all of the arbitrators and if one or all of the arbitrators are substituted, the arbitral

proceedings shall continue from the stage already reached and on the basis of the evidence and material already on record, and the arbitrator(s) appointed under this section shall be deemed to have received the said evidence and material.

(7) In the event of arbitrator(s) being appointed under this section, the arbitral tribunal thus reconstituted shall be deemed to be in continuation of the previously appointed arbitral tribunal.

(8) It shall be open to the Court to impose actual or exemplary costs upon any of the parties under this section.

(9) An application filed under sub-section

(5) shall be disposed of by the Court as expeditiously as possible and endeavour shall be made to dispose of the matter within a period of sixty days from the date of service of notice on the opposite party.”

MANDATE OF LAW ON EXTENSION:

7 Notably, the parameters governing extension of arbitral proceedings have been spelt out by the Hon'ble Supreme Court, as detailed herein-below :

7(i-a). While dealing with a similar fact-situation, the Hon'ble Supreme Court in TATA Sons Pvt. Ltd. (Formerly TATA Sons Ltd.) vs. Siva Industries and Holdings Ltd. and others, 2023 (1) SCALE 793, held that the mandate of an Arbitrator is liable to be extended by the Court, under Section 29A(4) and 29A(5) of the Act, in the following terms:-

*“24 The provisions of Section 29A, as originally introduced into the statute, mandated that all awards shall be made within a period of twelve months from the date on which the arbitral tribunal enters upon the reference. The explanation clarified when the arbitral tribunal would be deemed to have entered upon the reference, namely, the date on which the arbitrator has received written notice of the appointment. The mandatory nature of the provisions of Section 29A(1) and their application to all arbitrations conducted under the Act, domestic or international commercial, was evident from the use of the word “shall” **In terms of Section 29A(4), in case the arbitral award was not rendered within the twelve or eighteen month period as the case may be, the mandate of the arbitrator(s) would stand terminated, unless on an application made by any of the parties, the court extended time on sufficient cause being shown.***

xxxx. xxx... xxx..

26. Sub-section (3) of Section 29A empowers parties, by consent, to extend the period specified in sub-section (1) for making the award by a further period not exceeding six months. Thereafter, if the award is not made within the period which is specified in sub-section (1) or the extended period specified in sub-section (3), the mandate of the arbitrator shall terminate unless the court has extended the period either prior to or after the expiry of the period so specified. In other words, the timeline of twelve months for making the award (in matters other than international

commercial arbitration), is qualified by the consensual entrustment to the parties under sub-section (3) to extend the period by six months after which the court is empowered in terms of sub-section (4) to extend the period for making the award. The submission of the second respondent is that the provisions of sub-section (3) and sub-section (4) must also apply to an international commercial arbitration. This would merit close scrutiny. The legislature has not expressly excluded the applicability of sub-sections (3) and (4) of Section 29A to an international commercial arbitration. But, at the same time, it must be noticed that the rationale underlying sub-section (3) is to ensure that despite the stipulation of twelve months for the making of an arbitral award in the domestic context, parties may by consent agree to an extension of time by a further period of six months. Such an extension of six months is envisaged in the case of a domestic arbitration since there is a mandate that the award shall be made within a period of twelve months. A further extension has, however, been entrusted to the court in terms of sub-section (4) of Section 29A. However, insofar as an international commercial arbitration is concerned, the statutory regime is clear by the substantive part of sub-section 1 of Section 29A in terms of which the timeline of twelve months for making an arbitral award is not applicable to it. In an international commercial arbitration, the legislature has only indicated that the award should be made as expeditiously as possible and that an endeavour may be made to dispose of the matter within a period of twelve months from the completion of pleadings.”

(emphasis supplied)

7(i-b). While dealing with a similar situation, the Hon'ble Supreme Court, in Rohan Builders (India) Private Limited versus Berger Paints India Limited, 2024 SCC OnLine SC 2494, has reiterated that the mandate of an Arbitrator is liable to be extended on an application made, either prior to or after the period for completing the arbitral proceedings had expired and such extension may be granted only for a sufficient cause being shown to the satisfaction of the Court, in the following terms:-

“15. Rohan Builders (India) Pvt. Ltd. (supra) 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 29A(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 29A(4) permits a fee reduction of up to five percent for each month of delay attributable to the arbitral tribunal.

16. Lastly, Section 29A(6) does not support the narrow interpretation of the expression “terminate”. It states that the court - while deciding an extension application under Section 29A(4) - may substitute one or all the arbitrators.

Section 29A(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 29A(8) and 29A(9). The court in terms of Section 29A(8) has the power to impose actual or exemplary costs upon the parties.

Lastly, Section 29A(9) stipulates that an application for extension under sub-section (5) must be disposed of expeditiously, with the endeavor of doing so within sixty days from the date of filing.

17. As per the second proviso to Section 29A(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 29A(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 29A(4) of the A & C Act.

18. 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.”

7(i-c). While dealing with the case relating to extension of arbitral proceedings, the Hon'ble Supreme Court in M/s Ajay Protech Pvt. Ltd. versus General Manager & Another, 2024 SCC OnLine SC 3381, held as under:

12. The issue before us is not whether the application under Section 29A(4) is filed within the permissible time for seeking extension, i.e., 12 months, followed by another 6 months at the consent of the parties. **The real issue is whether there is a sufficient cause for the Court to extend the period for making of the award.** For considering whether there is a sufficient cause or not, it is necessary to take into account the following events. As indicated earlier, even before expiry of the period of 12 months under Section 29A(1), commencing from 09.10.2019 (date of completion of pleadings), the COVID pandemic had started. The period between 15.03.2020 and 28.02.2022 is anyways mandated to be excluded from periods of limitation. Therefore, from the

date of completion of pleadings till 15.03.2020, only a period of 5 months is taken. If the remainder of the 18 months period is reckoned from 28.02.2022, the said period would expire on 31.03.2023. In other words, the appellant would have been within the period specified under Section 29A(1) read with Section 29A(3) had it filed the application by such date. However, the problem arose because the application was filed on 01.08.2023. Really speaking, it is the period commencing from 31.03.2023 to 01.08.2023 that the Court is to take into account for considering whether there is sufficient cause to exercise the power under Section 29A(5) to extend the period.

13. In view of the above, it is clear that the reasoning adopted by the High Court in holding that there is a delay of 2 years, 4 months in filing the application is erroneous.

14. We will **have to consider if there is sufficient cause or not filing the application before 31.03.2023**. In the application for extension, the appellant has submitted that the reasons for extension of time are as follows:

(i) the Arbitral Tribunal proceeded with online hearings in 2022, but was required to adjourn the proceedings on several occasions at the request of the respondents' counsel as the panel from which the arbitrator was appointed had been changed.

(ii) That the dispute involved technical and legal questions, and the record of the case is bulky.

(iii) That the delay is neither attributable to the parties, nor to the Arbitral Tribunal, who have acted in a prompt and cautious manner.

(iv) The hearing is complete, and only the award needs to be declared, thereby leading to hardship to the parties if the time for making the award is not extended. On these grounds, the appellant prayed for a onemonth extension under Section 29A(4).

15. Efficiency in the conduct of arbitral proceedings is integral to the effectiveness of the dispute resolution remedy through arbitration. **Efficiency is inextricably connected with expeditious conclusion of arbitral proceedings.** While the statute incorporates party autonomy even with respect to the conduct and conclusion of arbitral proceedings, **there is a statutory recognition of the power of the Court step in wherever it is necessary to ensure that the process of resolution of the dispute is taken to its logical end, if according to the Court, the circumstances so warrant.**

It is in this context that the Arbitration and Conciliation Act adopts the well-known language of limitation statutes and provides that the **Court can extend the time if it finds that there is sufficient cause.**

16. The meaning of '**sufficient cause**' for extending the time to make an award must take colour from the underlying purpose of the arbitration process. The primary objective in rendering an arbitral award is to resolve disputes through the agreed dispute resolution mechanism as contracted by the parties. Therefore, '**sufficient cause**' should be interpreted in the context of **facilitating effective dispute resolution.**

ANALYSIS IN INSTANT CASE:

8. Perusal of the Statute provisions and the mandate of law and the material on record in the instant petition indicates that the Arbitral proceedings were initiated by Learned Arbitrator-cum-Divisional Commissioner Mandi in October, 2023 and after completion of pleadings, the matter was fixed for framing of issues on 22.10.2024. Thereafter, the matter was taken up for evidence of the parties. The respondent evidence was recorded by Arbitrator on 07.04.2025 and the order was reserved on 09.06.2025 by the Arbitrator concerned.

9. Material on record indicates that the Arbitral proceedings could not be concluded by the Arbitrator, without any cogent and convening reason attributable to the petitioner. Records reveal that the matter was adjourned on couple of occasions due to administrative exigencies by the Arbitrator, who happens to be Divisional Commissioner also. Even the parties to the Arbitral proceedings have participated in the proceedings for the last about two years. The intent and object of Arbitral proceedings should be effort to take the proceedings to a logical end and that too in a practical and pragmatic manner. The intent of the Arbitration is to facilitate the effective conclusion of arbitral proceedings, so that the rights of the parties to Arbitration are adjudicated expeditiously in accordance with law.

10. The averments in the petition, indicates sufficient cause which is not at all attributable to the petitioner. In these circumstances, in order to balance the rights of the parties and to safeguard the interest, this Court based on sufficient cause as discussed herein above, allows the instant application with directions to Learned Arbitrator to conclude the arbitral proceedings expeditiously, to meet the ends of justice, when arbitral proceedings originating from same acquisition notice and relating to the same Award stood adjudicated by Learned Arbitrator. Treating petitioner differently without any fault shall certainly deprive the petitioner of the right for an effective, practical and pragmatic conclusion of arbitral proceedings, which are at final stages, in instant case.

DIRECTIONS:

11. In view of above discussion and for the reasons recorded herein-above coupled with "sufficient cause" having been made out and in order to facilitate expeditious and logical conclusion of arbitral proceedings, the instant petition is allowed, in the following terms:-

(i). Impugned order dated 05.08.2025 [Annexure P - 1, Copy] is closing the arbitral proceedings in the case of petitioner is quashed and set-aside;

(ii) Divisional Commissioner, Shimla is directed to conclude and decide the case no. 154 (13/24) In re: Neelam Kapoor versus CALA-cum-SDM Sadar, Mandi, by passing the Award in accordance with law; within six months from the date of receipt of copy of this judgment; and

(iii) Parties to bear respective costs.

In aforesaid terms, the instant petition is allowed and all pending miscellaneous application(s), if any, shall also, stand disposed of, accordingly.