

**IN THE SUPREME COURT OF BANGLADESH  
HIGH COURT DIVISION  
(CIVIL REVISIONAL JURISDICTION)**

**Present:**

**Mr. Justice Zafar Ahmed**

**Civil Revision No. 3146 of 2024**

**In the matter of:**

Sheltech Technology Limited

...Petitioner

-Versus-

Bangladesh Rural Electrification Board

...Opposite Party

Mr. Md. Sameer Sattar, with  
Mr. Mahbub Hasan, Advocates

...For the petitioner

Mr. Reja-E-Rabbi Khandoker, with  
Ms. Meherunnesa, Advocates

....For the opposite party

**Heard and Judgment on: 01.09.2024**

In an arbitration proceeding initiated under the Arbitration Act, 2001 an arbitration award was given on 15.01.2023 in favour of Sheltech Technology Ltd. (petitioner herein) and against Bangladesh Rural Electrification Board (in short, the BREB) (opposite party herein). Challenging the said award, the BREB filed an application under Section 42 of the Arbitration Act, 2001 before the learned District Judge, Dhaka on 08.06.2023 and the same was registered as Arbitration Miscellaneous Case No. 321 of 2023. The award recipient

*i.e.* Sheltech entered appearance in the miscellaneous case and on 30.01.2024 filed an application before the learned District Judge, Dhaka to dismiss the miscellaneous case on the ground that the same was barred by limitation under Section 42 of Arbitration Act. The learned Judge heard the application on 28.05.2024 and rejected the same holding, “বিজ্ঞ কৌশলীগণের বক্তব্য শ্রবণ করলাম। নথি পাঠ ও পর্যালোচনা করলাম। নথি পাঠে দেখা যায়, মোকদ্দমাটি ০২/১০/২০২৩ তারিখ শুনানীর জন্য গৃহীত হলে প্রতিপক্ষ ১৮/০১/২০২৪ তারিখ ওকালত নামা সহকারে হাজির হয়ে ৩০/০১/২০২৪ তারিখ লিখিত আপত্তি সহ দাখিল করতঃ অপর এক দরখাস্ত দাখিলএকমে মোকদ্দমাটি ডিসমিসের প্রার্থনা করেন। যেহেতু উভয় পক্ষ মোকদ্দমায় উপস্থিত হয়ে প্রতিদ্বন্দ্বিতা করছে সেহেতু এ পর্যায়ে উভয় পক্ষের বক্তব্য শ্রবণ হেতু উক্ত বিষয়ে সিদ্ধান্ত প্রদান যুক্তিযুক্ত হয় না। সেই বিবেচনায় দাখিলীয় দরখাস্ত নামঞ্জুরএকমে আগামী ০৩/০৭/২০২৪ তারিখ উভয়পক্ষে লিখিত যুক্তিতর্ক দাখিল ও মোকদ্দমাটি শুনানীর দিন ধার্য্য হয়।”

Challenging the above-mentioned order dated 28.05.2024, the award recipient Sheltech has filed the instant revisional application under Section 115(1) of the Code of Civil Procedure and on 28.07.2024 obtained a Rule and order stay.

The opposite party BREB has filed a counter affidavit.

I have heard the learned Advocates of both sides and perused the materials on record.

The only ground taken in the application filed by the award recipient Sheltech to dismiss the miscellaneous case is that the

miscellaneous case is barred by limitation. Limitation is a mixed question of facts and law. I note that the learned District Judge fixed 03.07.2024 for submission of written arguments by the parties and for hearing the case. In my view, the learned Judge should not have rejected the application filed by the Sheltech, rather he should have kept the same with records to consider the same and decide the question of limitation at the time of final hearing of the miscellaneous case. The learned Advocates of both sides candidly agree on this point.

In view of the above, the operative part of the order dated 28.05.2024 passed by the learned District Judge, Dhaka in Arbitration Miscellaneous Case No.321 of 2023 so far as it relates to rejection of the application dated 30.01.2024 filed by award recipient Sheltech for dismissal of the arbitration case on sole ground of limitation is set aside. The said application dated 30.01.2024 is treated as being kept with the records of the miscellaneous case. The learned District Judge is directed to dispose of the arbitration miscellaneous case forthwith preferably within 3(three) months from the date of receipt of this judgment and order. At the time of final disposal of the miscellaneous case, the learned District Judge shall consider the application filed by the Sheltech to dismiss the miscellaneous case on ground of maintainability as being barred by limitation on the attending facts

and circumstances of the case and in accordance with law along with other issues.

With above observations and directions, the Rule is disposed of.

Mazhar, BO