

ABSTRACT

Thesis Title : Power Of Court In Relation To Arbitration Proceedings.

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This thesis studies about the role of the court in arbitration, particularly regarding to the power of court in relation to arbitral proceedings. Due to the Arbitration Act B.C. 1987 granted the court the power to intervene the arbitral proceedings widely, this delayed the arbitral proceedings and lacked independence in making a decision, in addition to providing the parties opportunity to delay the case as well.

According to the Arbitration Act B.C. 1987, section 18 solely provided the role of the court in relation to arbitral proceedings, mainly relating to issuing sommons to witness to testify, taking an oath, ordering someone to present documents or evidence, interim measures of protection during proceedings and preliminary determination in legal issue, in which grants the court power to consider after receiving a request of either one of arbitrators, without having specified procedure before submitting the request to court. It is not suitable to provide the court having the duty to consider a request of either one of arbitrators, even without the case pending in court and such request does not be presented on behalf of the whole

arbitrators. Additionally, it can be said that the role of the court has intervened the arbitral proceedings and has not proceeds with the case in line with the arbitration in other countries. After studying, the researcher would like to suggest that the Arbitration Act B.C. 1987 should be amended by granting the arbitrators the power in considering a request for summon to a witness to testify and ordering the third party to present documents or evidence by itself, in case of such request relating to issue in dispute, as well as the parties could request to court for interim measures of protection even without appointing any arbitrator, and after the appointment of arbitrators, such arbitrators will have the power to consider that issue futher, unless the case will affect the third party.