

Court No. - 19

Case :- CIVIL MISC. ARBITRATION APPLICATION No. - 18 of 2023

Applicant :- Trading Engineers (International) Ltd. Represented By Sri Mahipal Singh

Opposite Party :- Uttar Pradesh Power Transmission Corporation Limited And Anr.

Counsel for Applicant :- Shrawan Kumar

Counsel for Opposite Party :- Eshita Bhasin, Raje Bhasin, Ramendra Kumar Yadav, Sanjeet Kumar

Hon'ble Jaspreet Singh, J.

None appears for the applicant, despite the name of Shri Shrawan Kumar has been printed in the additional cause list. The record further indicates that even on the last date, none had appeared on behalf of the applicant and the Court had passed the following order, which reads as under:-

"None appears for the petitioner. Ms. Eshita Bhasin, learned counsel has put in appearance on behalf of the respondents. In the ends of justice, the matter is passed over for the day.

List this matter again on 29th of November, 2023. In case if the counsel for the petitioner does not appear on the next date, the matter shall be heard in his absence."

Today again, none has put in appearance on behalf of the applicant while Ms. Eshita Bhasin, learned counsel for the respondent is present.

It has been pointed out that the applicant has moved an application before this Court under Section 29(4) of the Arbitration and Conciliation Act, 1966 for seeking extension of mandate of the Arbitrator. It has further been submitted that the applicant also has taken recourse filing a similar petition before the Commercial Court-II, Lucknow, which is registered as Arbitration Case No.101 of 2023 (M/S Trading Engineers (International) Ltd. Vs. U.P. Power Transmission Corporation Ltd.). It has further been pointed out by learned counsel for the respondent that because of pendency of the instant petition before this Court, Commercial Court is reluctant to proceed in the matter as it shall be evident from the order passed by the Commercial Court-II, Lucknow dated 10.10.2023, copy of which has been provided by learned counsel for the respondent for perusal of the Court.

Be that as it may, the issue involved in the instant petition is whether this Court would have the jurisdiction to entertain a

petition under Section 29(4) of Arbitration and Conciliation Act, 1996 for extension of time for the Arbitrator. This issue may not detain this Court for long as this precise issue was considered and decided by this Court in Civil Misc. Arbitration Application No.13 of 2023 (M/S A'Xykno Capital Services Private Ltd. Thru. Authorized Signatory Bhushan Ramesh Meshram Vs. State Of U.P. Thru. Executive Director State Water And Sanitation Mission); Neutral Citation No. - 2023:AHC-LKO:37194.

In view of the aforesaid, this Court is of the clear opinion that the instant petition is not maintainable before this Court. Accordingly, it is dismissed as such, since the applicant has already invoked the jurisdiction of the appropriate court, all the pleas are open to the parties to be raised before the appropriate Court.

With the aforesaid, the petition is dismissed only on the ground of maintainability. It is made clear that this Court has not examined the case of the parties on merit and the Commercial Court-II, Lucknow shall decide the Case No.101 of 2023 as expeditiously as possible preferably within a period of four weeks from the date of a certified copy of this order is placed before the court concerned.

Order Date :- 29.11.2023
Ashutosh Pandey