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IN THE HIGH COURT OF DELHI AT NEW DELHI

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ARB.P. 514/2015

PRATIHAR CONST. COMPANY (P) LTD. Petitioner
Through: Mr. J.K. Singh, Advocate.

versus

ERA INFRA ENGINEERING LTD. Respondent
Through: Mr. Nilava Bandyopadhyay with
Mr. Rahul Pandey, Advocates.

CORAM: JUSTICE S. MURALIDHAR

ORDER

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03.10.2016

1. This is a petition seeking appointment of an Arbitrator in the disputes between the parties arising out of a work order dated 22nd February 2007 inter alia the earthwork in filling in embankment etc. for the project of Bhatapara-Urkura (Raipur) and Virsinghpura (Umaria).

2. It is seen that the Petitioner invoked the arbitration clause for the above work order by issuing a legal notice dated 23rd September 2011 to the Respondent. Thereafter the present petition was filed only on 10th September 2015 i.e. nearly four years thereafter. It is accordingly submitted by learned counsel for the Respondent that the petition is time barred. He placed reliance on the decision in *R.K. Aneja v. Delhi Development Authority 63 (1996) DLT 839*.

3. Learned counsel for the Petitioner states that there were three separate

projects for which work orders were issued to the Petitioner by the Respondent. In respect of the work order for the NTPC Simhadri-Vishakhapatnam, the matter was referred to arbitration by an order dated 27th August 2014 in Arb. No. 427 of 2014. It appears that pursuant to the above order, the Petitioner filed a claim before the learned Arbitrator appointed by the Court combining the claim under that contract with the claims under the other work orders i.e. for Bhatapara-Urkura (Raipur) and Virsinghpura (Umaria). Objections were raised by the Respondent herein in the said arbitration proceedings that the Petitioner could not combine the claims under different work orders. It is only thereafter that the Petitioner filed the present petition seeking to refer the disputes arising from the work order for the Bhatapara-Urkura (Raipur) region to arbitration.

4. The Court is of the view that in the first place the Petitioner was not justified in delaying the filing of the present petition by nearly four years after 23rd September 2011 when the arbitration was first invoked. The mere fact that an Arbitrator was appointed in respect of the disputes arising out of another contract between the parties does not give the Petitioner a fresh cause of action extending the limitation for filing the petition to seek appropriate reliefs.

5. The Court declines to entertain the present petition as it is barred by limitation. The petition is dismissed.

S. MURALIDHAR, J

OCTOBER 03, 2016/dn