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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **FAO(OS) 595/2015**

NATIONAL POWER TRAINING INSTITUTE Appellant

Represented by: **Mr.Sanjay Goswami and
Mr.R.K.Arora, Advocates.**

versus

SUNEHARI BAGH BUILDERS PVT LTD Respondent

Represented by: **Mr.Bharat Bhushan Dharmani,
Advocate.**

CORAM:

HON'BLE MR. JUSTICE PRADEEP NANDRAJOG

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

29.02.2016

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1. The impugned order rejecting I.A.No.12713/2015 filed under Order VII Rule 11 of the Code of Civil Procedure has returned a determinative finding that the suit had been instituted within limitation and for which the learned Single Judge has referred to a report dated October 24, 2011 of the Internal Work Committee of the appellant. Reckoned from said date the suit has been held to be within limitation.

2. The issue of limitation which arises for consideration in the instant case is a mixed question of law and fact. Whether the report of the Internal Work Committee which was ultimately not accepted by the competent authority of the appellant could be treated as extending the limitation would need a proper debate. As regards the respondent, it needs to be factored, a plea taken in the plaint that limitation would accrue not when works were

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completed but when the final bill was settled and full payment was not released.

3. We dispose of the appeal setting aside the impugned order dated August 07, 2015 and simultaneously dismiss I.A.No.12713/2015, for the reason the appellant was ill-advised to file the same in as much as the issue of limitation which arose for consideration was a mixed question of law and fact.

4. The issue of limitation would be settled after pleadings are complete and post trial along with decision on all issues the issue of limitation would be decided.

5. No costs.

C.M.No.24642/2015 (Stay)

Application is dismissed as infructuous.

PRADEEP NANDRAJOG, J.

MUKTA GUPTA, J.

FEBRUARY 29, 2016
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