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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ O.M.P.(MISC.)(COMM.) 22/2017
M/S. BIL-BLA-GSCO (JV) Decree Holder

Through Mr.Rohan Batra and Mr.Arjun
Sharma, Advs.

versus

NTPC LIMITED Judgement Debtor
Through Mr. Puneet Taneja, Mr. Rajesh
Mahindru and Ms.Shaheen, Advs.

CORAM:
HON'BLE MR. JUSTICE JAYANT NATH

ORDER
% **23.08.2017**
IA No.9518 /2017 (exemption)

Exemption allowed subject to all just exceptions.

Application stands disposed of.

O.M.P.(MISC.)(COMM.) 22/2017

1. This petition is filed under Section 29A (4) & (5) of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as the Act) for extension of 12 months' time for making of the award.
2. The arbitration proceedings are going on between the parties pursuant to the termination of the Project Agreement dated 25.03.2013 for Development and Operation of the Chatti Bariatu ("CB Coal Block"). The agreement was terminated by the respondent vide letter dated 03.01.2015 on the ground of Force Majeure.

3. The three member Arbitral Tribunal entered reference on 24.03.2016. The period of one year as prescribed under Section 29A of the Act expired on 24.03.2017. The parties gave their consent for extension for making the award by a period of six months under Section 29A of the Act. The said extended period now expires on 24.09.2017.

4. It is the case of the petitioner that the petitioner has filed witness statements of six witnesses whereas the respondent has filed witness statements of three witnesses. The exchange of affidavits by way of evidence and list of witnesses was completed on 28.03.2017. It is urged that cross-examination of 9 witnesses, completion of final arguments and passing of the award is likely to take some time. Hence, it is urged that this court may grant an extension of one year in exercise of its power under Section 29A (4) and (5) of the Act.

5. Learned counsel for the respondent has entered appearance. He submits that the petitioner are needlessly delaying the proceedings by examining six witnesses. It is urged that this is a simple matter that can be adjudicated upon without the parties leading evidence of witnesses and can be adjudicated based on the documents already on record of the learned Arbitral Tribunal. He pleads that the termination of the contract took place pursuant to the judgment of the Supreme Court cancelling the coal block allotment to the respondent and hence the question of leading evidence by examining witnesses would not be necessary.

6. Learned counsel for the petitioner in rejoinder arguments has pointed out the order of the learned Arbitral Tribunal dated 29.05.2017 where it has been noted by the learned Tribunal that both the parties would address on the issue of the requirement of oral evidence. Learned counsel also points

out that the respondent themselves had taken two months in filing of the statement of defence and the petitioner cannot be blamed for the delay in arbitration proceedings. He also submits that the respondent are taking needless time in cross-examination.

7. A perusal of the order dated 29.05.2017 shows that the learned Tribunal has noted the contention of the petitioner. The order dated 30.05.2017 shows that some portion of the affidavit of CW-1 was deleted and the cross-examination of CW-1 has commenced. It is clear that the Tribunal is seized of the issue raised by the respondent.

8. Keeping in view the fact that the arbitration proceedings have already made substantial progress, it would be in the interest of justice that the time for completion of the arbitration proceedings is extended. Needless prejudice would be caused to the parties in case the proceedings are terminated at this stage. Further given the nature of proceedings, the time sought appears to be reasonable. Accordingly, in the interest of justice, the time period for completion of the arbitration proceedings is extended by a period of 12 months w.e.f. 24.09.2017.

9. The petition stands disposed of.

10. A copy of this order be given dasti under signatures of the court master, as prayed.

JAYANT NATH, J

AUGUST 23, 2017

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