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

+ O.M.P.(MISC.)(COMM.) 10/2018

ORISSA CONCRETE AND ALLIED INDUSTRIES LTD.

..... Petitioner

Through Mr.Dhiraj Sachdeva, Adv.

versus

UNION OF INDIA & ANR.

..... Respondents

Through Mr.N.Prashant Kumar Nair, Adv.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

ORDER

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05.03.2018

This petition under Section 29A(5) of the Arbitration & Conciliation Act, 1996 (hereinafter referred to as the 'Act') has been filed by the petitioner seeking extension of time for making the award in the Arbitration Proceedings being conducted by the Sole Arbitrator for adjudicating the disputes that have arisen between the parties in relations to the Supply of Pre-stressed Mono-block Concrete Line Sleepers (pre-tensioned type) for Broad Gauge against Tender No. CS-166 of 2013.

The Sole Arbitrator was appointed by this Court vide order dated 23.05.2016 in Arb. P.174/2016. Even an application under Section 9 of the Act being OMP (I) No.615/2015, by order dated 25.07.2016, was directed to be treated as an application under Section 17 of the Act before the Sole Arbitrator.

The time for making of the award was extended by the arbitrator a period of six months, with the consent of the parties, on 09.11.2017, though,

the respondent now disputes having given such consent.

The Arbitration Proceedings are at an advance stage and the witness of the respondent is to be cross-examined by the petitioner.

Notice of this petition was issued on 29.01.2018 and the respondent was granted two weeks time to file the reply. In spite of opportunity granted, the respondent has not filed its reply. Learned counsel for the respondent has however, handed over a communication dated 25.01.2018, which contains the instruction of the respondent to the counsel. It is contended in the communication that the Arbitrator is not conducting the proceedings in an un-biased manner. It further states that the Arbitrator took long period of time to adjudicate on the application under Section 17 of the Act and communicated this order to the respondent after the period of filing of the appeal against the same had already expired. It is further stated in this communication that the Arbitrator has not given full opportunity to the respondent to present its case.

Learned counsel for the petitioner denies the above allegations.

In my view, any issue with respect to the conduct of the Arbitration Proceedings, except the one relating to the expeditious disposal of the Arbitration Proceedings, cannot be raised by the respondent at this stage. These contentions can be raised by the respondent before the Arbitrator himself or in an application under Section 34 of the Act while challenging the award passed by the Arbitrator, if the respondent is aggrieved of the same. In exercise of power under Section 29A(5) of the Act, the Court is only to see if there is sufficient cause shown to extend the time for making of the award. It is seen the Arbitrator has conducted as many as 10 sitting between 12.07.2016 to 22.12.2017. The examination of the witnesses of the

petitioner has also been concluded. Learned counsel for the petitioner hands across communications addressed by the respondent to the Arbitrator seeking adjournment of the proceedings on one ground or the other.

In view of the above, I find no merit in the objection raised by the respondent to the extension of time for making of the Arbitral Award by the Sole Arbitrator and, consequently, the time for making of the award is extended by further period of six months with effect from today.

The petition is allowed in the above terms, with no order as to costs.

Dasti.

NAVIN CHAWLA, J

MARCH 05, 2018/Arya