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

+ O.M.P.(MISC.)(COMM.) 121/2018

NATIONAL HIGHWAYS AUTHORITY
OF INDIA

..... Petitioner

Through: Mr Santosh Kumar and Mr Manav
Gill, Advocates.

versus

MADURAI TUTICORIN EXPRESSWAYS
LTD

..... Respondent

Through: Mr Dayan Krishnan, Sr. Advocate
with Mr Himesh Thakur and Mr
Sumti Kumar Shukla, Advocates.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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31.05.2018

IA Nos.7566/2018, 7567/2018 & 7568/2018

1. Allowed, subject to all just exceptions.

O.M.P.(MISC.)(COMM.) 121/2018

2. The petitioner has filed the present petition under Section 29A of the Arbitration and Conciliation Act, 1996 (hereafter 'the Act'), *inter alia*, praying that the mandate of the Arbitral Tribunal be extended for a further period of 9 months.

3. The respondent has opposed the present petition, essentially, on two grounds: first, it is stated that the Arbitral Tribunal has delayed the matter and the arbitral proceedings has reached the stage of evidence after one year; and second, it is stated that the Government of Tamil Nadu is a necessary

party and, therefore, to avoid multiple litigations, a common arbitration involving the Government of Tamil Nadu be conducted. The respondent has also referred to an order dated 23.05.2018 passed by this Court in ***OMP (MISC.) (COMM.) 28/2018*** titled '***Barasat Krishgar Expressways Limited v. National Highways Authority of India***', whereby this Court had suggested that a former Judge be appointed as the presiding arbitrator. It is stated that two of the members of the arbitral tribunal in that case are also members of the Arbitral Tribunal in this case as well.

4. This Court is not persuaded to accept any of the contentions advanced on behalf of the respondent. First of all, the orders indicate that the Arbitral Tribunal has acted with due despatch and the significant amount of time has been consumed in deciding the applications filed by the respective parties.

5. The contention that the Government of Tamil Nadu be impleaded as a party is a matter alien to the issue of extension of time for making the arbitral award.

6. Insofar as the reference to ***OMP (MISC.) (COMM.) 28/2018*** is concerned, the said matter is under consideration of this Court and the facts of that case are materially different to the facts of this case. In that matter, there was, *prima facie*, material that the arbitral tribunal was unable to decide the procedure; no such grievance can be made by the respondent in this regard. The grievance of the petitioner that the Arbitral Tribunal had decided to proceed without evidence is also unmerited, as the Arbitral Tribunal has allowed the respondent's application for recording of evidence and the arbitral proceedings are now at the stage of evidence.

7. Considering that the Arbitral Tribunal acted with due despatch and that the arbitral proceedings are at the stage of recording of evidence, the

petition is allowed and the time for making the arbitral award is extended for a period upto 31.03.2019.

8. The petition is disposed of.
9. Order *dasti* under signatures of the Court Master.

MAY 31, 2018
MK

VIBHU BAKHRU, J