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IN THE HIGH COURT OF DELHI AT NEW DELHI

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ARB.P. 267/2017

OIL AND NATURAL GAS CORPORATION LTD. (ONGC)

..... Petitioner

Through : Mr.K.R.Sasiprabhu and Mr.Biju
P.Raman, Advs.

versus

ENSEARCH PETROLEUM PVT. LTD.

..... Respondent

Through : None

CORAM:

HON'BLE MR. JUSTICE YOGESH KHANNA

ORDER

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06.02.2018

1. This is a petition under Section 11 of the Arbitration and Conciliation Act, 1996.
2. It is submitted by learned counsel for the petitioner that on 02.03.2007 the petitioner, the respondent and M/s Gujarat State Petroleum Corporation Ltd.(GSPC), entered into a Production Sharing Contract, ("PSC").
3. It is submitted that on 22.01.2008 the Respondent along with the Petitioner and M/s GSPC had thereafter, entered into a Joint Operating Agreement (JOA) for defining the respective rights and obligations under the (PSC) with the object of conducting and performing the petroleum operations under the said PSC in the manner consistent with the provisions of the PSC. On 04.07.2008

petitioner had raised various cash calls calling upon Respondent to make payments. First of the cash calls was made on 04.07.2008 for an amount of Rs.1.76 crores which was due on 03.08.2008. The Respondent on 11.09.2008 made payments towards the cash call made on it. However, after payment of the first cash call, none of the other cash calls were paid by the Respondent despite the same being raised and reminded from time to time. A total of 10 cash calls were made by the petitioner till 01.04.2011, which was due and payable by Respondent, but, were never paid.

4. It is submitted by learned counsel for the Petitioner that the petitioner sent a notice of default of cash call to the Respondent on 01.02.2010 and thereafter on 15.07.2010, a notice for invoking the forfeiture of Respondents Participating Interest was also issued. Despite service of all the afore-referred notices on Respondent, it failed and neglected to pay the amounts due under the cash calls.

5. Further it is submitted that Participating Interest of the Respondent was acquired by the petitioner as approved by the Government of India on 10.01.2014. It is submitted that the Respondent owes to the petitioner an amount of Rs.71.61 Crores along with interest thereon working out to Rs.86.52 Crores up to 31.07.2016 with further interest from 01.08.2016. The Respondent has failed to pay the petitioner total amount of Rs.158.13 Crores and is liable to pay the same with further interest from 01.08.2016.

6. It is submitted that the Petitioner on 30.09.2016 the Petitioner had invoked the said Arbitration and have nominated Mr. Justice P. K. Bahri (Retd) as it's Arbitrator and called upon the Respondent to

appoint its Arbitrator but the Respondent has failed to do so.

7. Hence, this petition.

8. Since the respondent has failed to appoint the nominee arbitrator so Mr.Mukul Gupta, Senior Advocate (Mobile No.9810135004) is hereby appointed as nominee arbitrator for respondent and Mr.Justice Jaspal Singh (Retd.) (Mobile No.9811070188) is hereby appointed as the presiding arbitrator.

9. Fee of the arbitrators shall be as per the Act.

10. The petition stands disposed of in terms of above.

YOGESH KHANNA, J

FEBRUARY 06, 2018

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