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

+ O.M.P.(MISC.)(COMM.) 58/2017

DELHI TRANSCO LIMITED

..... Decree Holder

Through: Mr Prashant Mehta, Mr Alok Tripathi
and Ms Vasundhra Bhardwaj,
Advocates alongwith Mr Gaurav
Gupta, Legal Manager and Mr
Shailesh Mathur, Manager.

versus

M.J. ENGINEERING WORKS. PVT.
LTD

..... Judgement Debtor

Through

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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20.03.2018

1. 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 time for making the award be extended.
2. It is stated that the petitioner had invoked the arbitration clause on 16.10.2015 and had appointed Mr S. K. Sharma as the Sole Arbitrator to adjudicate the disputes between the parties. After being appointed, the Arbitrator had issued notices to the parties and the first hearing was held on 10.11.2015. It is stated that after participating in three hearings, the respondent had raised an objection challenging the Arbitrator and had insisted upon a person outside the cadre of the petitioner to be appointed as

an arbitrator. In view of this request, on 05.07.2016, the petitioner appointed Mr Rakesh Kapoor, former District & Sessions Judge as the Sole Arbitrator to adjudicate the disputes between the parties.

3. Mr Rakesh Kapoor entered upon reference on 14.07.2016 and issued notices to the parties for holding pre-hearing on 22.07.2016. It is stated that, thereafter, several hearings have been held before the Sole Arbitrator and the final arguments on behalf of the petitioner are already concluded. The arguments on behalf of the respondent are yet to commence.

4. On 18.09.2017, the respondent filed an application seeking termination of the mandate of the Arbitral Tribunal by virtue of Section 29A of the Act as introduced by Arbitration and Conciliation Act, 1996. This had led the petitioner to file the present petition.

5. There is no dispute that the Arbitrator has acted with due dispatch. However, the learned counsel appearing for the respondent states that the appointment of the Arbitrator was flawed inasmuch as the Chairman-cum-Managing Director of the petitioner had no power to nominate an arbitrator. He further submits that the respondent has also filed a petition under Sections 14 & 15 of the Act, which is yet to be listed.

6. Since, there is no dispute that the Arbitrator has acted with due dispatch and the delay in completion of the arbitral proceedings cannot be attributed to him, this Court is of the view that the petition ought to be allowed and the time for making the award be extended for a further period of four months from today. It is so directed.

7. It is also clarified that this is without prejudice to the contentions of the respondent in its application filed under Sections 14 & 15 of the Act, and

the same would be considered on its own merits.

8. The petition is disposed of.

9. Order *dasti*.

VIBHU BAKHRU, J

MARCH 20, 2018

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