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

+ **O.M.P. (T) (COMM.) 4/2019**

J&K PROJECT CONSTRUCTION CORPORATION LTD.

..... Petitioner

Through Mr. Amit Aggarwal, Ms. Geetika
Kapur, Ms. Aanchal and Mr. Vardaan
Bajaj, Advs.

versus

GENERAL MANAGER, NORTHERN RAILWAYS & ANR.

..... Respondents

Through Mr. Jagjit Singh and Mr. Preet Singh,
Advs.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

ORDER

% **10.01.2019**

I.A. No.251/2019

1 Allowed, subject to just exceptions.

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2 This is a petition under Section 14 of the Arbitration and Conciliation Act, 1996 (in short '1996 Act').

3 Mr. Preet Singh, who, appears on behalf of the respondents, has taken a preliminary objection that this Court does not have the jurisdiction to entertain in the instant petition.

4 I have perused the petition. The only assertion made in the petition with regard to the jurisdiction is as follows:

“This Hon’ble Court has the pecuniary as well as territorial jurisdiction to adjudicate the present petition”.

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5 As is obvious, material particulars as to how this court has territorial jurisdiction to entertain and adjudicate upon the present petition is not pleaded.

6 It is not in dispute that the subject contract required the petitioner to execute the works described as: "blanketing with river bed material from Chakki River and earthwork in formation and in embankment and in cutting including mechanical compaction and construction of minor bridges of RCC boxes, RCC slabs, hume pipes and other allied works between Suchipind (including) to Cholang (including) in connection with doubling of Jalandhar Cantt-Pathankot-Jammu section".

7 Therefore, what emerges that if not wholly, a part of cause of action arises outside the territorial jurisdiction of this Court.

8 Learned counsel for the petitioner says that the arbitration proceedings have been held in Delhi.

8.1 On being queried, learned counsel for the petitioner does concede that there is no provision in the agreement obtaining between the parties whereby Delhi has been fixed as the seat of Arbitration.

9 To be noted, via this petition, mandate of the Arbitral Tribunal is sought to be terminated even though the Arbitral Tribunal has been in existence since 2014. It is the petitioner's contention that the constitution of the Arbitral Tribunal had to be changed twice i.e. in 2015 and 2017 as the Presiding Arbitrator was changed. I am further informed that the proceedings are now at the stage of evidence.

10 Having regard to the fact that the petitioner has failed to show as to how this Court has territorial jurisdiction in the matter and the fact that if not wholly, a part of cause of action has arisen outside Delhi, I am not inclined to entertain the present petition. The same is, accordingly, returned.

11 Needless to say, the petitioner will, however, have the liberty to approach the appropriate Court, if it so desires to agitate the issue raised in the petition as I have not dealt with the same on merits.

RAJIV SHAKDHER, J

JANUARY 10, 2019

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