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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of Decision: 19.3.2019

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O.M.P.(MISC.)(COMM.) 12/2018

HINDUSTAN CLEANENERGY LIMITED

..... Petitioner

Through: Mr. Tarun Singla, Adv.

versus

URJA ASSOCIATES & ORS.

..... Respondent

Through: Ms. Anju Jain with Mr. Hitesh Sachar
and Mr. Rishi Pal, Advs.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

RAJIV SHAKDHER, J. (ORAL)

1. This petition is filed under Section 29A of the Arbitration and Conciliation Act, 1996 (hereafter referred to as '1996 Act').
2. Notice in this petition was issued on 2.2.2018.
3. The respondents resist the extension of time.
4. I must also indicate that in between parties had taken time to settle their *inter se* disputes. This endeavour was made both before this Court as well as before the learned Arbitrator. Since, the settlement has not been firmed up, the petitioner has pressed for disposal of the captioned petition.
5. Ms. Jain, who, appears for the respondents, at the outset, says that no relief can be given in the instant petition as during the pendency of the petition, the petitioner has filed a police complaint based on which an FIR has been registered.

6. Insofar as this petition is concerned, the following dates and events are not disputed:

6.1 This Court, in Arbitration Petition No.666/2015, passed order dated 3.10.2016, appointing a sole Arbitrator. Learned Arbitrator entered upon reference on 8.10.2016. After parties had filed their pleadings, issues were framed by him on 9.3.2017.

6.2 I am told by the counsel for the parties that thereafter, as indicated hereinabove, attempts were made at having the matter settled. In the meanwhile, the statutory period of twelve (12) months had expired. The respondent was called upon to agree to extension of time for a further period of six (6) months as provided for in the 1996 Act.

6.3 It is not disputed that the respondents vide communication dated 6.11.2017 refused to give its consent for extension of time.

6.4 Consequently, on 8.11.2017, the learned Arbitrator communicated to the parties that he could not continue with the arbitration proceedings.

7. It is in this context that the captioned petition has been filed.

8. I may also indicate that the petitioner had, in fact, on 12.12.2017 attempted to move an application in the disposed of arbitration petition, which was discouraged by this Court. The application was accordingly dismissed as withdrawn on 18.12.2017 with liberty to file a substantive petition.

9. As indicated above, the respondents' only objection to the relief sought in the present petition is that criminal proceedings against them have been initiated by the petitioner.

10. To my mind, at this juncture, it is not possible to know as to whether the criminal proceedings are frivolous in nature or have some substance. The outcome of this petition, in my view, cannot depend on such imponderable circumstance.

11. To my mind, if the respondents have any grievance and tenable objection(s), the same can be articulated before the learned Arbitrator. Thus, having regard to the aforesaid, I am inclined to extend the time frame by another nine (9) months to enable the learned Arbitrator to conclude the arbitration proceedings. Time for this purpose will commence from today.

12. Consequently, the period between the date when the statutory period of 12 months expired and today shall stand regularized.

13. The captioned petition is disposed of in the aforementioned terms.

RAJIV SHAKDHER, J

MARCH 19, 2019/pmc

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