



2024:DHC:5412



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

+ Ex. P. 319/2015

M/S JAIPRAKASH HYUNDAI
CONSORTIUM(JHC)

.....Petitioner

Through: Mr. Lovekesh Sawhney, Sr.
Advocate with Mr. Rohit Kumar, Adv.

versus

M/S SJVN LIMITED

.....Respondent

Through: Mr. Uttam Dutt, Ms. Sonakshi
Singh, Mr. Kumar Bhaskar and Mr. Aman
Sanjeev Sharma, Advs.

CORAM:

HON'BLE MR. JUSTICE C.HARI SHANKAR

JUDGMENT (ORAL)

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11.07.2024

Ex. P. 319/2015

1. This execution petition seeks execution of the recommendation dated 9 August 2002 of the Dispute Review Board (DRB), rendered in terms of Clause 67 of the General Conditions of the Contract (GCC) executed between the petitioner and the respondent.

2. The petitioner was awarded a contract by the respondent. The petitioner, as a contractor, raised disputes against the respondent which, after they had unsuccessfully travelled the corridors of the Engineer In charge and the CMD of the respondent, were referred to



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the DRB. The DRB, by its recommendation dated 9 August 2002, decided the issue in favour of the petitioner. The present execution petition came to be filed on 27 July 2015.

3. The petitioner cannot maintain the present execution petition for the simple reason that it is beyond the period of 12 years provided under Article 136 of the Limitation Act, and, by virtue of the express exclusion contained in Section 5¹ thereof, delay in preferring an execution petition under Order XXI of the CPC cannot be condoned and there is no provision for condonation of delay in filing an execution petition. Section 43(1)² of the 1996 Act makes the provisions of the Limitation Act applicable, *mutatis mutandis*, to arbitrations. Any execution petition, which is preferred beyond a period of 12 years from the date of the order, which is sought to be executed, has therefore necessarily to be dismissed. The Court has no latitude in that regard.

4. In view of the order passed today by this Court in OMP (Enf) (Comm) 199/2021 and OMP (Enf) (Comm) 201/2021 the Court is constrained to hold that the present execution petition, having been filed beyond the limitation period, this petition is not maintainable, as it is barred by time.

¹ 5. **Extension of prescribed period in certain cases.** – Any appeal or any application, other than an application under any of the provisions of Order XXI of the Code of Civil Procedure, 1908 (5 of 1908), may be admitted after the prescribed period if the appellant or the applicant satisfies the court that he had sufficient cause for not preferring the appeal or making the application within such period.

Explanation. – The fact that the appellant or the applicant was misled by any order, practice or judgment of the High Court in ascertaining or computing the prescribed period may be sufficient cause within the meaning of this section.

² 43. **Limitations.** –

(1) The Limitation Act, 1963 (36 of 1963), shall apply to arbitrations as it applies to proceedings in court.



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5. The petition is accordingly dismissed.

C.HARI SHANKAR, J

JULY 11, 2024

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Click here to check corrigendum, if any