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

+ **O.M.P. (COMM) 204/2019**

NTPC LIMITED

..... Petitioner

Through: Ms. Maninder Acharya, Senior Advocate with Ms. Bani Dikshit, Ms. Suruchi Suri, Mr. Varun Singh, Mr. Viplav Acharya and Mr. Sai Shashank V, Advocates

versus

JINDAL ITF LIMITED & ANR.

..... Respondents

Through: Mr. Manoj K Singh, Mr. Rajdutt Shekhar Singh, Mr. Vijaya Singh and Mr. Kumar Shashwat Singh Sawno, Advocates

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

% **21.12.2021**

[VIA HYBRID MODE]

I.A. 17110/2021 (Application under Section 151 of the CPC seeking permission to lay down pipelines for the purposes of installing submersible pumps at the project site since the handover of assets has not been complied with as per order dated 8th January, 2020)

1. By way of this application, the Petitioner seeks permission to lay down the pipes in the premises which are under the control of Respondent No. 1, till such time the handover of the project assets is concluded.

2. Ms. Maninder Acharya, Senior Counsel for the Applicant, refers to the order dated 8th January, 2020 to explain the premise for filing this



application. A perusal of the afore-noted order reveals that this Court had issued certain directions for the formal handing over of the fixed infrastructure by the Respondent No. 1 to the Petitioner in terms of Articles 13.3 to 13.5 of the Agreement and for which a Local Commissioner was also appointed.

3. Be that as it may. In the opinion of the Court, the prayer sought in the present application cannot be entertained in the present proceedings. The Court is exercising powers under Section 34 of the Arbitration and Conciliation Act, 1996 to examine the legality and validity of the impugned Arbitral Award. The nature of the relief sought is beyond the scope of Section 34.

4. Therefore, in the opinion of the Court, Petitioner's remedy lies elsewhere and certainly not in the present proceedings.

5. The Court may however note that Mr. Manoj K. Singh, counsel for the Respondent on instructions states that the project site had been handed over to the Petitioner in 2019. Ms. Acharya, however, refutes this contention of the Respondent.

6. In view of the above, the present application is dismissed as not maintainable. It is clarified that the Petitioner would be free to exercise its remedies for the same reliefs before the appropriate court of competent jurisdiction in accordance with law.

SANJEEV NARULA, J

DECEMBER 21, 2021

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