

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
APPEAL {L} NO.118 OF 2016

Roadway Solution India Pvt. Ltd. Appellant
Vs.
Reliance Infrastructure Ltd., & Ors. Respondents

WITH

**NOTICE OF MOTION {L} NO.826 OF 2016
IN
APPEAL {L} NO.118 OF 2016**

Roadway Solution India Pvt. Ltd. Applicant
In the matter between
Roadway Solution India Pvt. Ltd. Appellant
Vs.
Reliance Infrastructure Ltd., & Ors. Respondents

Mr. Ravi Kadam, Senior Counsel with Mr. Chirag Mody,
Mr. Dharam Juman, Mr. Munaf Virjee, Mr. Nilesh Tated,
Mr. Nausher Kohli and Mr. Sandeep Sharma i/by DSK
Legal for the Appellant/Applicant.

Mr. D.J. Khambata, Senior Counsel with Mr. Dhishan
Kukreja, Mr. D.J. Kakalia, Mr. Paresh Patkar and
Mr. Vaibhav Sharma i/by M/s. Mulla & Mulla & CB &
C. for Respondent Nos.1 and 2.

Mr. D.Y. Wani for Respondent No.3.

Mr. Nikhil Apte i/by Wadia Ghandy & Co. for Respondent
No.4.

CORAM: ANOOP V. MOHTA AND
S.C. GUPTE, JJ.

DATED: MARCH 14, 2016

P.C.:

1. The arbitration appeal, which is not on board, is taken up, by consent and on the request of the learned senior counsel for the parties.

2. The appeal challenges an order passed by a learned single Judge on an Arbitration Petition under Section 9 of the Arbitration and Conciliation Act, 1996.

3. Learned senior counsel appearing for the appellant seeks leave to withdraw the appeal, provided his remedy to seek an appropriate order for security in the event the respondent en-cashes the subject-Bank Guarantee is kept open, to be agitated before the Arbitral Forum. The appeal is accordingly dismissed as withdrawn. It is clarified that in the event the respondents en-cash the Bank Guarantees, which are the subject-matters of the present appeal, the appellant shall have liberty to apply for securing the amounts by preferring an appropriate application under Section 17 of the Act before the Arbitral Forum.

4. The learned senior counsel for the parties inform the Court that the Arbitral Forum has already been constituted.

5. All rights and contentions of the parties on merits are kept open.

6. The ad-interim orders operating till date in the appeal shall stand vacated accordingly.

7. In view of dismissal of the appeal as withdrawn, Notice of Motion {L} No.826 of 2016 does not survive and it accordingly stands disposed of.

(S.C. GUPTE, J.)

(ANOOP V. MOHTA, J.)