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

+ **O.M.P.(I) 122/2015 & IA No.6541/2015**

+ **O.M.P.(I) 190/2015 & IA No.8931/2015**

+ **O.M.P.(I) 191/2015; IA Nos.8933/2015 & 15994/2015**

**SHAPOORJI PALLONJI & CO PRIVATE LIMITED**

..... Petitioner

Through: Mr. Chandra Sekhar Jha,  
Advocate

versus

**KORBA WEST POWER COMPANY LIMITED**

..... Respondent

Through: Mr. D.K. Malhotra and Mr.  
Rajesh Kr. Malhotra, Advocates

+ **O.M.P.(I) 192/2015 & IA No.8935/2015**

**SHAPOORJI PALLONJI & CO PRIVATE LIMITED**

..... Petitioner

Through: Mr. Chandra Sekhar Jha,  
Advocate

versus

**JHABUA POWER LIMITED**

..... Respondent

Through: Mr. D.K. Malhotra and Mr.  
Rajesh Kr. Malhotra, Advocates

**CORAM: JUSTICE S. MURALIDHAR**

**ORDER**

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**03.11.2016**

1. In its order dated 27<sup>th</sup> March 2015 in OMP (I) No. 122 of 2015 the Court made it clear that “in the event the bank guarantee No. 2010004 IBGP 0222 and performance bank guarantee No. 2010004 IBGP 0327 have not yet been encashed they will not be encashed till the next date. If they have already been encashed that will be subject to further orders of the Court.” On 30<sup>th</sup> October 2015 the Court continued the interim order "subject to the Petitioner keeping the bank guarantee alive." Again on 31<sup>st</sup> March 2016 the Court directed: "Subject to keeping the bank guarantee alive by the petitioner, the interim order to continue, in the meanwhile."

2. By the order dated 22<sup>nd</sup> August, 2016 in OMP (I) No. 122 of 2015, the interim order passed by this Court on 27<sup>th</sup> March, 2015 was directed to continue subject to the Petitioner keeping the Bank Guarantees (BGs) in question alive. At the subsequent hearing on 2<sup>nd</sup> September, 2016 the Court was informed that the BGs were valid up to 31<sup>st</sup> August, 2016. Today, learned counsel for the Petitioner informs the Court that the BGs in question have not been extended thereafter.

3. The Petitioner cannot take advantage of the fact that the BGs expired on 31<sup>st</sup> August, 2016, particularly when their encashment was stayed subject to their being kept alive. The Petitioner is, therefore, hereby directed to ensure that the BGs which were the subject matter of the interim order dated 27<sup>th</sup> March, 2015 in OMP (I) No. 122 of 2015 are renewed forthwith for a further period of one year from

today or replace them with fresh BGs on the same terms and conditions.

4. The above direction will be complied with by the Petitioner within a period of one week from today. Subject to the above, the said BGs will not be encashed by the Respondent till such time the sole Arbitrator appointed by this Court today by separate orders in Arb. P. Nos. 148/2016 and 149/2016 passes an order in an application that may be filed by either party under section 17 of the Act for vacating, modifying or varying the above interim order in accordance with law. It will be open to either party to seek any further interim directions from the learned Arbitrator.

5. In the event of non-compliance with the above direction, it will be open to the Respondent to seek appropriate remedies in accordance with law.

6. The petitions and the applications are disposed of in the above terms.

**S. MURALIDHAR, J**

**NOVEMBER 03, 2016**  
**RS**