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

+ **O.M.P.(I) (COMM.) 353/2016**

ORIENTAL STRUCTURAL ENGINEERS PVT. LTD. Petitioner

Through Mr Anil Airi, Senior Advocate with
Ms Bindiya L. Airi, Mr Ravi Chandna and
Mr Ishan Khanna, Advocates.

versus

**LEIGHTON INDIA CONTRACTORS PVT. LTD.
(PREVIOUSLY KNOWN AS LEIGHTON WELSPUN
CONTRACTORS PVT. LTD.) Respondent**

Through Mr K. Datta, Mr Manish Kumar
Srivastava, Advocates.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

% 15.11.2016

1. Mr Datta, learned counsel appearing for the respondent states, on instructions, that the respondent would have no objection if the petitioner removes the crushing plants (specified in the annexure appended to the contract in question) subject to the petitioner providing a security by way of a bank guarantee in the sum of ₹2.5 crores. He states that the bank guarantee would be encashed after the final award that may be passed by the Arbitral Tribunal and would be subject to the said Award.

2. In view of the above, the present petition is disposed of with the following directions:-

- (i) That the petitioner will furnish a bank guarantee in the sum of ₹2.5 crores to the respondent within a period of

four weeks from today.

- (ii) Immediately, on the bank guarantee being furnished, the petitioner would be at liberty to remove the crushing plants from the Chenani Nashri Tunnel Project site in Jammu and Kashmir.
- (iii) The petitioner shall also invoke the arbitration clause and take the necessary steps for commencing arbitration within a period of four weeks from today.
- (iv) The respondent may encash/invoke the bank guarantee after the Award is passed by the Arbitral Tribunal and would be subject to that Award. The respondent also has the liberty to encash the bank guarantee in the event, the petitioner fails to initiate arbitration within a period of four weeks from today.

3. It is clarified that the above directions are passed without any prejudice to all rights and contentions of the parties. The aforesaid orders are also subject to any further order(s) that may be passed by the Arbitral Tribunal.

4. The petition is disposed of with the above directions.

5. Order *dasti*.

VIBHU BAKHRU, J

NOVEMBER 15, 2016

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