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

+ O.M.P.(I) 248/2015

ASSIGNIA-VIL JV Petitioner
Through Dr.Amit George, Adv.

versus

RAIL VIKAS NIGAM LTD Respondent
Through Mr.Anil Seth, Adv.

CORAM:
HON'BLE MR. JUSTICE MANMOHAN SINGH

ORDER
% **07.09.2016**

Learned counsel for the petitioner has informed that the Arbitral Tribunal has already been constituted. He is not disputing that once the Arbitral Tribunal has been constituted, this Court may refer the present dispute to the same Arbitral Tribunal. Under Section 9(3) of Arbitration and Conciliation Act, 1996 (Amended Act), it is mandatory that once the Arbitral Tribunal has been constituted, the Court shall not entertain an application under sub-section (1), unless the Court finds that circumstances exists which may not render the remedy provided under Section 17 of the Act. Such situation has not arisen in the present case. The respondent had challenged the impugned order dated 29th April, 2016 before the Supreme Court vide SLP (C) No.20485/2016 which was disposed of by order dated 17th August, 2016. Under these circumstances, the present petition is treated as an application under Section 17 of the Act. Pleadings of the present petition be filed by the petitioner before the Arbitral Tribunal as and when

the Arbitral Tribunal commences its hearing. The Arbitral Tribunal is requested to dispose of the application under Section 17 of the Act within three months from the first date. Counsel for the petitioner on behalf of his client has made a statement that the petitioner shall keep the bank guarantee alive till the pendency of the arbitration proceedings and at least keep the same alive for one week before the date of expiry.

The present petition is accordingly disposed of with these directions.

Dasti, under the signatures of the Court Master.

MANMOHAN SINGH, J

SEPTEMBER 07, 2016/ vp