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

+ **FAO(OS) 310/2016**

M/S PUNJ LLOYD LIMITED Appellant

Through Mr. Sandeep Sethi, Sr. Advocate with
Mr. Rajeev M. Roy, Advocate.

versus

NATIONAL HIGHWAYS AUTHORITY OF INDIA & ANR.

..... Respondents

Through Mr. Pradeep K. Bakshi & Ms. Prachi V.
Sharma, Advocates for NHAI.

CORAM:

HON'BLE MR. JUSTICE SANJIV KHANNA

HON'BLE MS. JUSTICE SUNITA GUPTA

ORDER

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27.10.2016

CM Nos. 40706-40707/2016

Exemption applications are allowed, subject to all just exceptions.

FAO(OS) No. 310/2016

The appeal is listed at 4.30 P.M. pursuant to the urgent listing which
has been allowed.

2. Issue notice.

3. Notice is accepted by Mr. Pradeep K. Bakshi, Advocate on behalf of
the respondent No. 1, who is present on advance notice.

4. With the consent of the parties, the appeal is taken up for hearing at the admission stage itself.

5. We have heard learned counsel for the parties and perused the order dated 25th October, 2016. Counsel for the appellant submits that they are ready and willing to keep the bank guarantee alive and disputes *inter se* could be decided by Arbitration. It is stated that the snag or defect list was prepared on 22nd April, 2011 and the defects as pointed out were rectified. The contention of the respondent, however, is to the contrary.

6. Learned counsel for the appellant has drawn our attention to the order dated 1st July, 2015 passed by the single Judge. He submits that this is a case where special equities demand that the respondent should be restrained from invoking the bank guarantee. We are not inclined to accept the submission of the appellant. As per the facts noted by the single Judge and accepted by the appellant, a snag or defect list was certainly prepared and notified within a year after the construction of the road. The dispute is whether the appellant had rectified the defects and the snags as pointed out. The dispute between the appellant and the respondent on the said aspect, including the contention of the appellant would be decided in the arbitration proceedings. The assertions by the appellant contradicting the respondent

would not show and establish special equities that would justify grant of stay from invoking the bank guarantee.

In these circumstances, the appeal is dismissed.

SANJIV KHANNA, J.

SUNITA GUPTA, J.

OCTOBER 27, 2016
VKR