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

+ **FAO(OS) COMM.64/2017**

**CORSAN CORVIAM CONSTRUCCION S.A. .... Appellant**

Represented by: Mr.Akhil Sibal, Advocate with  
Mr.Vineet Tayal, Mr.Deepak  
Khurana, Mr.Sourav Roy,  
Advocates

versus

**NATIONAL HIGHWAYS AUTHORITY  
OF INDIA**

.... Respondent

Represented by: Mr.Sandeep Sethi, Sr.Advocate  
instructed by Ms.Madhu  
Sweta, Ms.Kanika Tandon,  
Advocates

**CORAM:**

**HON'BLE MR. JUSTICE PRADEEP NANDRAJOG**

**HON'BLE MR. JUSTICE YOGESH KHANNA**

**ORDER**

% **15.03.2017**

CM No.10442/2017

Allowed subject to just exceptions.

FAO(OS) COMM.64/2017

1. Having heard learned counsel for the parties we find no merit in the appeal for the reason undisputedly the appellant wrote a letter dated June 09, 2015 (noted by the learned Single Judge in para 16 of the impugned order) in which it admitted that 90% workable length of the total project road land required was available. Contention of learned counsel for the appellant is that the appellant was coerced into writing the letter by the respondent due to it being in a dominating position.

2. This itself would be a highly disputed question of fact and has to be resolved in view of the evidence led during the arbitration proceedings.
3. Reckoning the appointed date with reference to the letter dated June 09, 2015, concededly the progress of the work is very slow. The targets which ought to have been achieved admittedly not been achieved.
4. Undisputedly, three bank guarantees stay whereof is prayed for are conditional.
5. Within the confines of the law concerning interdicting invocation of bank guarantees and especially unconditional bank guarantees, we find no infirmity in the impugned order. The appeal is dismissed in limine.
6. No costs.

CM No.10441/2017

Dismissed as infructuous.

**PRADEEP NANDRAJOG, J**

**YOGESH KHANNA, J**

**MARCH 15, 2017**

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