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

+ O.M.P.(I) (COMM.) 139/2017

SCORPIO ENGINEERING PRIVATE
LIMITED

..... Petitioner

Through: Mr Dinesh Agnani, Senior Advocate
with Mr Manu Seshadri, Mr Arjun
Syal, Ms Sahiba Ahluwalia and Mr
Ishan BIsht, Advocates.

versus

INDIAN POWER CORPORATION (HALDIA)
LIMITED & ORS.

..... Respondents

Through: Mr Firasat Ali, Advocate for R-3.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

% **28.03.2017**

IA No.3932/2017

1. Allowed, subject to all just exceptions.

O.M.P.(I) (COMM.) 139/2017

2. The petitioner has filed the present petition under section 9 of the Arbitration and Conciliation Act, 1996 *inter alia* praying as under:

"a) restrain the Respondent No. 1 and 2 from encashing the Security Cum Performance Bank Guarantees bearing No. 0201/LG/11/2014 amounting to Rs. 2,15,00,000/- and bearing No. 0201/LG/06/2014 amounting to Rs. 22,50,000/- which were submitted by the Petitioner through the Respondent No. 3 Bank in favour of the Respondent No. 1 acting through Respondent No. 2 pending adjudication of the present Petition;

- b) restrain the Respondent No. 1 and 2 from encashing the Advance Bank Guarantees bearing No. 0201/LG/05/2014 amounting to Rs. 45,00,000/-, bearing No. 0201/LG/07/2014 amounting to Rs. 1,00,00,000/-, bearing No. 0201/LG/08/2014 amounting to Rs. 1,00,00,000/-, bearing No. 0201/LG/09/2014 amounting to Rs. 1,00,00,000/- and bearing No. 0201/LG/10/2014 amounting to Rs. 1,19,00,000/- which were submitted by the Petitioner through the Respondent No. 3 Bank in favour of the Respondent No. 1 acting through Respondent No. 2 pending adjudication of the present Petition."

3. At the outset, Mr Dinesh Agnani, learned senior counsel for the petitioner submits that although the petitioner apprehends that its bank guarantees may be unjustifiably invoked, however, the petitioner has no confirmed information that the respondents are intending to invoke the bank guarantee. He, accordingly, prays that the petitioner may be permitted to withdraw the present petition with liberty to file afresh. He also requests that the bank guarantees in question not be encashed without prior notice of three working days, in order to enable the petitioner to approach this Court, if required. It is, accordingly, so ordered.

4. The petition is dismissed as withdrawn *albeit* with the aforesaid directions.

5. Order *dasti* under signatures of the Court Master.

VIBHU BAKHRU, J

MARCH 28, 2017
MK