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

+ **FAO(OS) 122/2017 & CM No.14978/2017**

**POWER FINANCE CORPORATION
LIMITED**

..... Appellant

Through: Ms. Maneesha Dhir with
Mr. K.P.S Kohli, Mr. Karan Batura
and Mr. Mahipal Singh, Advs.

versus

**GVK DEVELOPMENTAL PROJECTS PVT
LTD AND ORS**

..... Respondent

Through: Mr. M.L. Lahoty with Mr. Paban
K. Sharma, Advs. for R-1 & 2.
Mr. Jaswinder Singh, Adv. for R-
4/UOI.

CORAM:

HON'BLE THE ACTING CHIEF JUSTICE

HON'BLE MR. JUSTICE C.HARI SHANKAR

O R D E R

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04.09.2017

1. The appellant before us assails the order dated 07.03.2017 whereby the learned Single Judge has allowed I.A. No.956/2017 filed under Order I Rule 10 CPC in CS(OS) No.450/2016.

This suit was filed by the GVK Development Projects Pvt. Ltd. & Anr. (respondet No.1 herein) against the appellant herein seeking *inter alia* permanent injunction restraining the appellant from initiating coercive action as the execution of the Ratle HEP (850 MW) Project, integrally connected with the loan agreement had been frustrated by impossibility of performance.

2. The financial facilities were advanced by the appellant to the respondent No.1 in relation to a power project on the Chenab river located in Kishtwar District of the State of Jammu & Kashmir. The respondent No.1 has contended that the law and order situation in Jammu & Kashmir rendered it impossible to execute the contract and has led to creation of a *force majeure* condition. It is also submitted that on account of Indus Water Treaty, 1960, the consent of the Government of Pakistan was necessary, which was not forthcoming.

3. On a consideration of the terms of rupee loan agreement as well as report of the lender's engineers dated 03.03.2015, the Government of Jammu & Kashmir, which is taking contrary position, as well as the Government of India, by the impugned order dated 07.03.2017, the learned Single Judge had directed the impleadment of the State of Jammu & Kashmir and Union of India as party defendant Nos.2 & 3 respectively in the Suit.

4. It is submitted by Ms. Maneesha Dhir, learned counsel for the appellant herein that the appellant would not make any grievance to the impleadment of these parties, but is concerned with the continuation of the interim protection granted by earlier orders.

5. It appears that along with the Suit, the plaintiff/respondent No.1 herein had filed I.A. No.12478/2016 under Order XXXIX Rule 1 & 2, CPC seeking interim protection. By an order dated 05.10.2016, the learned Single Judge recorded the assurance of the

defendant/appellant herein that they would not take any further action pursuant to demand notices of the Power Grid Corporation dated 28.07.2016 and 23.09.2016 till 15.11.2016. This assurance has been continued till subsequent dates.

6. Ms. Dhir complains that on account of the impugned order dated 07.03.2017, the matter is unreasonably delayed for completion of pleadings by the newly added defendant Nos.2 & 3 (respondent Nos.3 & 4 herein) resulting in irreparable loss enuring to the appellant herein. Mr. Jasvinder Singh, learned counsel for the respondent No.4/UOI disputes that they have delayed the matter in any manner whatsoever, pointing out that the respondent No.4 had filed its written statement in anticipation while responding to the impleadment application; much before it became a party.

7. There can be no manner of doubt that the proceedings in the suit must be concluded expeditiously. The applications being I.A. Nos.12478/2016 & 11039/2016 filed by the respondent Nos.1 & 2 herein under Order XXXIX Rule 1 & 2 and appellant's application being I.A. No.900/2017 under Order XXXIX Rule 4 CPC also deserve to be heard expeditiously.

8. In view thereof, this appeal is disposed of with a direction to the learned Single Judge to ensure that the proceedings in CS(OS) No.450/2016 as well as hearing in pending applications are not

delayed and the matter is concluded expeditiously.

The appeal is disposed of in the above terms.

A copy of this order be given *dasti* under the signatures of the Court Master.

ACTING CHIEF JUSTICE

C.HARI SHANKAR, J

SEPTEMBER 04, 2017/pmc