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

+ ARB. A. (COMM.) 16/2017

RAIL VIKASH NIGAM LTD.

..... Petitioner

Through Mr.Anil Seth and Mr.Udit Seth, Advs.

versus

RAILONE TARMAT DURGA (JV)

..... Respondent

Through

CORAM:

HON'BLE MR. JUSTICE JAYANT NATH

ORDER

% **17.07.2017**

IA No.7749 /2017 (exemption)

Exemption allowed subject to all just exceptions.

Application stands disposed of.

ARB. A. (COMM.) 16/2017 & IA No.7790/2017 (stay)

1. Present petition is filed under section 37 of the Arbitration and Conciliation Act, 1996 seeking to impugn the order of the arbitral tribunal dated 7.3.2017 in respect of bank encashment guarantee. By agreement dated 22.08.2012 work was awarded by the appellant to the respondent. The appellant is said to have terminated the contract on 21.6.2016 and invoked the bank guarantee for Rs.13.12 crores.
2. The respondent filed a petition under section 9 of the Act before the court of Additional Chief Judge, (ACJ), City Civil Court, Hyderabad. Grievance of the petitioner was that judgment was reserved in the petition under section 9 of the Act by City Civil Court, Hyderabad wherein the respondent approached the Arbitral Tribunal wrongly stating that they have

withdrawn their petition pending before the City Civil Court, Hyderabad and requested the arbitral tribunal to pass appropriate interim orders. It is stated that the learned tribunal by the impugned order dated 7.3.2017 passed a status quo order regarding the bank guarantee noting that till the time the tribunal takes a decision on the matter on merits the said status quo be maintained. It is further submitted that after the said status quo order was passed on 7.3.2017, the respondent has thereafter gone and withdrawn the petition under section 9 of the Act pending before the said Civil Court, Hyderabad. It is urged that it was a grave impropriety on the part of the respondent which the learned Arbitral Tribunal has ignored. The issue regarding injunction is pending before the learned Arbitrator.

3. After some arguments, learned counsel for the Petitioner submits that he would like to withdraw the petition and make appropriate request before the arbitral tribunal to expeditiously hear the matter regarding the stay granted on the invocation of the bank guarantee without prejudice to his rights and contentions.

4. Granting leave and liberty to the petitioner, the present petition is dismissed as withdrawn. In case a request is made by the petitioner for expeditious adjudication on the issue of status quo for encashment of the bank guarantee, the arbitral tribunal is requested to deal with it, as per law expeditiously.

5. Petition stands disposed of. All pending applications, if any, also stand disposed of accordingly.

JAYANT NATH, J

JULY 17, 2017/n