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

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Judgment delivered on: 01.08.2017

+ **OMP(I)(COMM.)244/2017**

ATLANTA LIMITED

..... Petitioner

versus

NATIONAL HIGHWAYS & INFRASTRUCTURE
DEVELOPMENT CORPORATION
LIMITED & ORS.

..... Respondents

Advocates who appeared in this case:

For the Petitioner : Mr Chirag M.Shroff

For the Respondents: Ms Suruchi Suri and Mr Kabir Shanker Bose for
NHIDCL.

CORAM:-

HON'BLE MR JUSTICE SANJEEV SACHDEVA

JUDGMENT

01.08.2017

SANJEEV SACHDEVA, J. (ORAL)

1. The petitioner has filed this petition under Section 9 of the Arbitration & Conciliation Act, 1996 (hereinafter referred to as 'the Act') seeking the following prayers :-

- (a) *Pending, hearing and disposal of the present petition, restrain the respondent No.1 and their agents, servants, employees, assignees from acting upon the letter of the respondent dated 23.06.2017 and/or invoking the performance/mobilization security of the petitioner to the tune of Rs.46.62*

crores and restrain respondent Nos.3 to 5 from honouring invocation of the said BG of the petitioner and;

- (b) By an order or direction, stay the effect and operation of the letter/communication dated 23.06.2017 issued by respondent No.1 during the pendency of the present petition;*
- (c) Grant any other relief as is deemed fit and proper in the facts of and circumstances of the instant case.*

2. The parties have negotiated and arrived at a Settlement, which is recorded in the Minutes of the Meeting held on 20.07.2017.

3. An affidavit of Mr K.C.Bhatt, DGM (Technical) of respondent No.1 along with copy of Minutes of Meeting held on 20.07.2017 has been produced in Court. The same are taken on record.

4. Learned counsel for the parties submit that parties have settled their disputes in terms of clauses 3(a) to 3(g) recorded in the Minutes of the Meeting held on 20.07.2017.

5. For the purposes of completion, the terms and conditions of settlement as recorded in clauses 3(a) to 3 (g) are reproduced hereunder:-

“3(a) Atlanta Limited will take full responsibility for shifting the obstructing utilities as per Contract Clause 9.2 and National Highways & Infrastructure Development Corporation Limited (NHIDCL) will extend necessary assistance

wherever possible for accomplishing the same.

(b) It is stated by Atlanta Limited that Milestone-I shall be achieved by 10.10.2017; Milestone-II shall be achieved by 22.02.2018 and the Project will be completed by 31st May, 2019.

(c) Atlanta Limited has submitted a revised Programme vide Atlanta Letter No.AL/ASSAM/MB/16-17/1673 dated 06th July, 2017 and as per Contractual Provisions. NHIDCL shall seek the recommendations of the Authority's Engineer M/s Voyants Solution Private Limited on revised programme and the resources to be deployed by Atlanta to achieve the committed dates.

(d) Based on the categorical assurance by the Contractor to take up all works in right earnest, including but not limited to the Shifting of Obstructing Utilities, Site Clearances and the Project Works at a rate commensurate with achievement of the Milestones by deploying the equipments and resources. NHIDCL will observe the progress of work upto 22nd February, 2018 (2nd Milestone) and the intention to Termination Notice issued by NHIDCL to the Contractor will be kept in abeyance till that date and will not be acted upon.

(e) The Contractor agrees to mobilize necessary equipments and funds for the progress of the project.

(f) Atlanta Limited has submitted for extension of time vide letter dated 03rd July, 2017. It is agreed between the parties that the authority shall consider the same in view of the recommendations

of the Authority's Engineer.

(g) Both the parties are agreeable that in view of the above, the captioned petition shall be withdrawn by M/s. Atlanta Limited, by submitting the copy of these minutes before the Hon'ble Court."

6. Learned counsel for the parties submit that the petition be disposed of in terms of the Settlement, as recorded in paragraphs 3(a) to 3(g) hereinabove.

7. I have perused Clauses 3 (a) to 3 (g) and find them to be lawful.

8. The petition is accordingly disposed of in terms of Clauses 3(a) to 3(g) of the Minutes of the Meeting held on 20.07.2017 recorded hereinabove.

8. Order *Dasti* under signatures of the Court Master.

AUGUST 01, 2017/

SANJEEV SACHDEVA, J