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

+ **O.M.P.(I) (COMM.) 480/2016**

KMC CONSTRUCTIONS LTD.

..... Petitioner

Through Dr Amit George, Mr Priyabrat Tripathi
and Mr Swaroop George, Advocates.

versus

NATIONAL HIGHWAYS & INFRASTRUCTURE
DEVELOPMENT CORPORATION LTD.

..... Respondent

Through Ms Sadiqira Fatma, Advocate.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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21.02.2017

Learned counsel for the respondent seeks an adjournment to file a reply.

Learned counsel for the petitioner points out that the petitioner has already invoked the arbitration clause. It is further stated that in terms of the dispute resolution clause, a meeting was held on 23.01.2017 to resolve the disputes amicably; however, the same has not fructified in resolution of the disputes. Accordingly, by a letter dated 17.02.201, the petitioner nominated its arbitrator and requested the respondent to nominate its arbitrator.

The learned counsel for the respondent states that in case such a letter has been sent, the respondent shall take the necessary steps to nominate its arbitrator and for constitution of the arbitral tribunal.

In view of the above and, particularly, in view of the fact that the

respondent is seeking a further adjournment, this court considers it appropriate that the order passed on 16.12.2016 be continued till the arbitral tribunal has the opportunity to consider the controversy. Accordingly, it is directed that the interim order dated 1.12.2016 shall continue to be operative till further orders are passed by the arbitral tribunal (as and when constituted).

The respondent is at liberty to apply for vacation/variation of the order before the arbitral tribunal and the arbitral tribunal shall hear and decide such application uninfluenced by any observation made by this court in these proceedings.

It is clarified that nothing stated in the orders passed in these proceedings shall be read as an expression of opinion on the merits of the controversy or disputes between the parties.

The petition is disposed of in the above terms.

Order *dasti* under the signature of Court Master.

VIBHU BAKHRU, J

FEBRUARY 21, 2017

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