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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ O.M.P. (I) (COMM) 193/2018 & IA 5769/2018
VAYAM GMV INTELLIGENT TRANSPORTATION PRIVATE
LIMITED Petitioner

Through: Mr.Sacchin Puri, Sr. Adv. with
Mr.Shantanu Sagar, Mr.Anmol, Mr.Jeevesh
Praveen, Mr.Kamil Khan, Advs.

versus

AHMEDABAD JANMARG LIMITED & ANR. Respondents
Through: Nemo

CORAM:
HON'BLE MR. JUSTICE NAVIN CHAWLA

ORDER

% **26.04.2018**

IA 5769/2018

Exemption allowed subject to all just exceptions.

OMP(I) (Comm.) 193/2018

This petition under Section 9 of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as the 'Act') has been filed by the petitioner *inter alia* praying for an order restraining the respondents from invoking/encashing/enforcing the Performance Bank Guarantee No.90/2011 dated 9th March, 2011 issued by the Canara Bank, Janpath Branch, New Delhi-110001.

The said Performance Bank Guarantee has been submitted by the petitioner with the respondent pursuant to the Request for Proposal for Development, Implementation, Operation and Maintenance of Integrated Transit Management System (ITMS) for Bus Rapid Transit System (BRTS), Ahmedabad for Ahmedabad

Janmarg Limited, Ahmedabad dated 2nd February, 2010 issued by the respondent.

Clause 25 of RFP provides for dispute resolution through arbitration. Clause 25.2(b) of the same states that the place of arbitration shall be Ahmedabad. Clause 11 of the General Tender Conditions further states that the Courts at Ahmedabad shall have jurisdiction over all matters arising out of or relating to the contract.

In view of the above two clause(s) of the RFP, this Court would not have the territorial jurisdiction to entertain the present petition.

Learned senior counsel for the petitioner has handed over an e-mail dated 25th April, 2018 issued by the respondent no.1 to the petitioner as also to the Canara Bank/respondent no.2 intimating that the competent authority has accorded its conditional approval for extension of validity of the bank guarantee till 31st May, 2018 subject to the condition that the bank guarantee is extended by the Canara Bank on or before 30th April, 2018 valid upto 31st May, 2018.

Learned senior counsel for the petitioner submits that the petitioner is in the process of making a request to the bank for such extension. The petitioner is at liberty to intimate this fact to the respondents.

Be that as it may, as noted above, this Court would lack territorial jurisdiction to entertain the present petition.

Learned senior counsel for the petitioner seeks leave to withdraw the present petition with liberty to file the same before the Court of competent jurisdiction, if required.

The petition is dismissed as withdrawn with liberty as prayed for.

Dasti under the signature of the Court Master.

NAVIN CHAWLA, J

APRIL 26, 2018
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