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

\+ O.M.P.(I) (COMM.) 294/2018

RSCPL-RCC(JV) & ORS. ..... Petitioners

Through: Mr.Saurabh Kirpal, Mr.Amit Dhahia & Mr.Manohar Malik, Advs.

versus

GOVERNMENT OF UTTAR PRADESH & ORS. ..... Respondents

Through: Mr.Vinod Diwakar, CGSC with Mr.Sayandip Pahari & Mr.Aisha, Advs. for R-1 & R-2.
Mr.Arun Bhardwaj, CGSC with Mr.Shashwat Sharma, Adv. for UOI
Ms.Jagriti Ahuja, Adv. for R-4.

CORAM:
HON'BLE MR. JUSTICE NAVIN CHAWLA

O R D E R

% **04.12.2018**

Learned counsel for respondent no. 4 submits that respondent no. 4 shall abide by the order being passed by this Court or by the Tribunal. In view thereof, respondent no. 4 is not a necessary or proper party to the present proceeding. Respondent no.4 is deleted from array of the parties recording the above statement.

Learned counsel for the petitioners submits that no relief is being sought against respondent no. 2, Union of India, as well. Therefore, respondent no. 2 is also deleted from the array of parties.

This petition under Section 9 of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as the 'Act') has been filed by the petitioners praying for the following:-

> *"(i) Pass an order/direction restraining the Respondent from taking any coercive action pursuant to the notice dated 12.07.2018 issued by the Respondent no. 1 and further restraint*

the Respondents from invoking the PBG, till the final adjudication/settlement of all the disputes between the parties, in terms of the Contract (i.e. up till decision of the Arbitral Tribunal).”

This Court by an ad interim order dated 20.07.2018 had restrained the respondents from taking any coercive action pursuant to notice dated 12.07.2018 and/or invoking the performance bank guarantee submitted by the petitioner till the next date of hearing.

In spite of opportunity being granted, no reply has been filed by respondent no. 1. Today a request is being made for grant of further time to respondent no. 1 to file its reply.

The learned counsel for the petitioner submits that upon invocation of the Arbitration Agreement between the petitioner no.1 and respondent no. 1, the respondent no. 1 has also nominated its Arbitrator. He submits that the Presiding Arbitrator is likely to be appointed in near future.

In view of the above, it is directed that the interim order dated 20.07.2018 shall continue till four weeks after the first sitting of the Arbitral Tribunal and the Arbitral Tribunal shall decide on the question of further continuation/vacation/modification of the interim order on an appropriate application being filed by either party before the Arbitral Tribunal.

The petition is disposed of with the above directions, with no order as to cost.

NAVIN CHAWLA, J

DECEMBER 04, 2018/*rv*