

\$~43

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

+ O.M.P.(I) (COMM.) 300/2018 & I.A. No. 9861/2018

M/S KUNAL STRUCTURES (INDIA) PRIVATE

LIMITED

..... Petitioner

Through: Mr. S.P. Majmudar with Mr. H.J.  
Karathiya, Advs

versus

AIRPORTS AUTHORITY OF INDIA & ANR. .... Respondents

Through: Mr. Digvijay Rai with Mr. Kustubh  
Singh, Advs for respondent no.  
1/AAI

**CORAM:**

**HON'BLE MR. JUSTICE RAJIV SHAKDHER**

**ORDER**

%

**27.07.2018**

**I.A. No. 9862/2018 (Exemption)**

1. Allowed, subject to just exceptions.

**O.M.P.(I) (COMM.) 300/2018 & I.A. No. 9861/2018**

2. Issue notice.

3. Mr. Digvijay Rai accepts notice on behalf of the respondent.

4. It is the case of the petitioner that a contract for re-surfacing the subject runway was accorded to the petitioner. It is asserted by the petitioner that the work in pursuance of the contract commenced from 09.04.2016 and it was completed on 21.11.2016.

5. Furthermore, the petitioner claims that the payment was to be made by the respondent upon final bills being approved in that behalf.

6. Counsel for the petitioner says that it is presently aggrieved by the communication dated 20.06.2018, issued by the respondent whereby certain amounts were sought to be recovered on account of excess payment and deficiency in work.
7. Insofar as the amount sought to be recovered on account of excess payment is concerned, the same is pegged at Rs. 417,36,681/-.
8. Likewise, on account of deficiency of work, the amount quantified by the respondent is Rs. 16,15,692/-.
9. Counsel for the petitioner has drawn my attention to the communication dated 16.07.2018 whereby clause 25 of the agreement obtaining between the parties has been triggered.
10. This clause provides for resolution of disputes (before parties proceed to arbitrate) by Dispute Resolution Committee.
11. Mr. Rai does not oppose the fact that a request has been made and is pending consideration.
12. Furthermore, learned counsel says that the decision qua the said request will perhaps take another two weeks.
13. Mr. Rai says that this petition is pre-mature.
- 13.1 I tend to agree with Mr. Rai.
14. Accordingly, the petition is disposed of with a direction to the respondent to consider and dispose of the request made by the petitioner vide communication dated 16.07.2018.
15. Pending the consideration of the request, no coercive action will be taken against the petitioner.

16. The said interim direction will continue to operate for a period of 10 days after the decision is taken.
17. The petition is disposed of in the aforementioned terms.

**RAJIV SHAKDHER, J**

**JULY 27, 2018**

**c**