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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
COMMERCIAL ARBITRATION PETITION NO.275 OF 2019**

Balaji Railroad System Pvt. Ltd. V/s. Maharashtra Rail Infrastructure Development Corporation Ltd.	...	Petitioner. Respondents
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Mr. Sarosh Bharucha a/w Mr. Shrey Fatharpekar, Ms. Mahafrin Mehta, i/by M. Mulla Associates, for the Petitioner.

Mr. S. M. Gorwadkar, Senior Advocate, a/w Ms. Kavita Solunke, for respondent.

CORAM : G. S. KULKARNI, J.

DATE : 20th MARCH, 2019.

P.C. :

1] Heard Mr. Bharucha, learned counsel for the petitioner and Mr. S.M. Gorwadkar, learned Senior Counsel for the respondent.

2] This petition is filed under Section 9 of the Arbitration and Conciliation Act, 1996 (for short, "ACA"), whereby the petitioner prays for following interim reliefs pending the arbitral proceedings:-

(a) That this Hon'ble Court be pleased to stay the letter dated 13th December 2018 (Exhibit AA hereto) addressed by the Respondent terminating the Contract Agreement;

(b) That this Hon'ble Court pleased to restrain the Respondent by an order and injunction from entering into any contract with a third party in respect of the project;

(c) That this Hon'ble Court be pleased to restrain the respondent by

an order and injunction from debarring and or blacklisting the petitioners in participating in any other project being carried out by the respondent.

(d) That this Hon'ble Court be pleased to direct the Respondent by an order and direction to deposit with this Hon'ble Court an amount of Rs.25,89,687/-, being the amount of the invoice raised by the Petitioners (Exhibit H hereto);

(e) Ad-interim reliefs in terms of prayer clause a to d"

3] After the petition was heard for some time, learned counsel for the parties, on instructions, are agreeable that disputes and differences between the parties, as arisen under the Contract Agreement dated 13.9.2018, be referred for adjudication of a learned arbitrator. It is agreed between the parties that present application filed under Section 9 of the ACA, can be treated as application under Section 17 of the ACA, to be adjudicated the learned arbitral tribunal.

4] In view of the consensus between the parties, this petition is required to be disposed of. Hence the following order.

Order

i] Mr Naushad Engineer, Advocate, is appointed as the prospective substitute Arbitrator to adjudicate the disputes and differences between the parties, arising under the contract agreement dated 13th September, 2018.

ii] This petition under Section 9 of the ACA be treated as Application under Section 17 of the ACA to be adjudicated by the learned arbitral tribunal.

iii] The prospective sole arbitrator, fifteen days before entering

the arbitration reference, shall forward a statement of disclosure as per the provisions of Section 11(8) read with Section 12(1) of the Arbitration and Conciliation Act, 1996, to the Prothonotary & Senior Master of this Court, to be placed on record of these application with a copy to be forwarded to both the parties;

iii) At the first instance, the parties shall appear before the prospective arbitrator within two week from the date of disclosure, on date and time as may be fixed by the prospective arbitrator.

iv) The arbitral Tribunal shall endeavour to adjudicate application under Section 17 of the ACA as expeditiously as possible preferably within a period of four weeks from the date of entering reference.

(v) All contentions of the parties on merits of the matter are expressly kept open.

(vi) The Arbitration petition is disposed of in the above terms. No costs.

5]. Office to forward a copy of this order to the learned Arbitrator on the following address:

1/D Lentin Chamber,
First Floor, Dalal Street,
Mumbai 400 023.
Tel No.226561159.

[G. S. KULKARNI, J]