

Arun

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
ARBITRATION PETITION (L) NO. 1469 OF 2019**

Environ Solar Private Limited	...Petitioner
<i>Versus</i>	
ATC Telecom Infrastructure Services Limited	...Respondent

Mr Janak Dwarkadas, Senior Advocate, with Mr Sharan Jagtiani, Mr Sumeet Nankani, Ms Vaidehi Naik and Ms Bitika Kaur, i/b Neeti Niyaman, for the Petitioner.

Mr Navroze Seervai, Senior Advocate, with Mr Mustafa Doctor, Senior Advocate, with Karthik S, Mr Chirag Mody and Mr Amogh Joshi, i/b Bharucha & Partners, for the Respondent.

CORAM: G.S. PATEL, J.
DATED: 10th December 2019

PC:-

1. Parties agree that the present Arbitration Petition (L) No. 1469 of 2019 under Section 9 will also be referred to the learned sole arbitrator.

2. The present Petition will be placed before the learned sole arbitrator already appointed, Mr Zubin Behramkamdin, learned advocate of this Court as an application under Section 17. It is open to the present Petitioner, Environ Solar Private Limited, to seek urgent ad-interim reliefs before the arbitrator. Mr Seervai for the

Respondent, states on instructions that notwithstanding the termination notice dated 6th November 2019 issued by the present Respondent, ATC Telecom Infrastructure Services Limited, the Respondent will not remove the Petitioner's equipment or the Respondent's own equipment at any of the sites that are the subject matter of the agreement between the parties and which agreement is presently the subject matter of the arbitration. Mr Seervai further states that termination letter will not be given effect to until 17th December 2019. This is only to enable the learned sole arbitrator to consider the application to be made before him in terms of the present Petition and to make an order interim or ad-interim on it.

3. Mr Seervai makes it clear that his statement is without prejudice to all rights and contentions. That goes without saying. He also states that the limited statement that he makes on instructions can continue only till 17th December 2019 and he has no instructions to continue it even for a day thereafter. This necessarily means that the present Petitioner, Environ Solar Private Limited must, before that date obtain a suitable arbitral order on merits.

4. The Petitioner will by the end of the day today present a copy of the present Section 9 Petition to the Mr Behramkamdin accompanied by an ordinary copy of this order.

5. It is clarified that the previous arbitral order passed on a Section 17 Application, though in a different context, is part of the arbitral proceedings and will be read in those proceedings. A further

Affidavit even for that purpose is completely unnecessarily. No such Affidavit is to be filed for that purpose.

6. Mr Seervai states that his Affidavit in Reply for the limited purpose of opposing ad-interim reliefs will be filed and served on or before Thursday, 12th December 2019.

7. Mr Behramkamdin is requested, in the extraordinary facts and circumstances of the case, to give the parties the earliest possible hearing keeping in mind the limited and time-limited statement that Mr Seervai has made.

8. The Arbitration Petition is disposed of in these terms.

(G. S. PATEL, J)