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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **ARB. A. (COMM.) 33/2019, CAV. PET. 1156/2019, & I.As. 16432-16433/2019**
NATIONAL HIGHWAYS AUTHORITY OF INDIA (NHAI)

..... Petitioner

Through: Mr. Parag P. Tripathi, Sr. Adv. with
Mr. Manish Bishnoi, Mr. Srinivasan,
Mr. Umang Raj and Mr. Anurag,
Advs.

versus

GMR HYDERABAD VIJAYAWADA EXPRESSWAYS LTD.

..... Respondent

Through: Mr. Rajiv Nayar, Sr. Adv. with Mr.
Mahesh Agarwal, Ms. Megha Mehta,
Mr. Nishant Rao and Ms. Shruti
Arora, Advs.

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER

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25.11.2019

CAV. PET. 1156/2019

Learned counsel for the caveator is present. The caveat stands discharged.

I.A. 16433/2019 (for exemption)

Exemption allowed subject to all just exceptions.

Application stands disposed of.

ARB. A. (COMM.) 33/2019 & I.A. 16432/2019

1. The present appeal has been filed by the appellant under Section 37(2)(b) of the Arbitration and Conciliation Act, 1996 challenging the order dated November 18, 2019 passed by the Arbitral Tribunal. The same reads

as under:

“The Claimant has filed an application in terms of Section 17 of the Arbitration and Conciliation Act, 1996 (in relation to the letter No. NHAI/ BOT/1111,012/19/2007/144207 Dated: 18.11.2019 issued by the Respondent). It is stated that Respondent has invoked Article 36 of the Concession Agreement seeking to take over the operation and maintenance of the Toll Highway and other connected coercive action. It is stated that if the actions are effectuated they shall cause grave prejudice to the Claimant. It is further stated that the basis of the impugned action is intrinsically linked with the subject matter of the present proceedings. Notwithstanding the fact that the arguments have been concluded and the matter is closed for delivery of Award, such actions are 'being taken.

Considering the urgency and the pleas taken, the Tribunal directs as an interim measure that the impugned notice shall not be given effect until further orders.

The Respondents shall file its response, if any, within two weeks. In case Claimant intends to file any Rejoinder, it shall be done with one week thereafter. The Tribunal shall notify the date for hearing the Application, Reply, Rejoinder if any, later.

The parties are directed to file requisite stamp papers for embossing the Award within two weeks.

Parties are informed accordingly.”

2. It appears that subsequently on a communication made by the learned counsel for the appellant, the Arbitral Tribunal has again passed an order on November 19, 2019 fixing the proceedings on November 28, 2019 to consider the application filed by the respondent herein.
3. Since, the matter is fixed on November 28, 2019; this Court is of the view that it shall be appropriate for the appellant to make its submissions before the Arbitral Tribunal on November 28, 2019. I do not think that it is a fit case where this Court should interfere with the order passed by the Arbitral Tribunal.
4. The appeal and connected application are dismissed.
5. It is made clear that the Court has not expressed any view on the merits of the controversy in the appeal.

V. KAMESWAR RAO, J

NOVEMBER 25, 2019/aky