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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **O.M.P.(I) (COMM.) 17/2019 & IA No. 1073/2019**
SSC PROJECTS PVT.LTD

..... Petitioner

Through: Mr.Punit D.Tyagi, Mr.Ankit Parhar,
Advs.

versus

rites LTD. & ANR.

..... Respondents

Through: Mr.G.S. Chaturvedi, Adv. for R-1.
Mr.R.P. Vats, Mr.Apoorv Sarvaria &
Mr.Arjun Khandelwal, Advs. for R-2

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

ORDER

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24.01.2019

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

“(i) pass an order restraining the Respondent No. 1 from encashing Bank Guarantee No. 1467171GPER0052 dated 06.05.2017 issued by Respondent No.2 for a sum of Rs. 2,66,35,880/- valid till 31.03.2019 with a claim period upto 30.09.2019;”

It is the case of the petitioner that the respondent had ordered suspension of the work by its letter dated 13.11.2017 giving the reason of “paucity of funds” of the respondent. There is no order passed by the respondent directing recommencement of work.

In spite of the respondent being in default, the respondent by letter

dated 07.01.2019, while extending time for completion of work till 31.12.2019, stated that decision on levy of liquidated damages will be communicated in due course. This created apprehension in the mind of the petitioner that the bank guarantee submitted by the petitioner may be encashed by the respondent for recovery of such liquidated damages which are yet to be levied.

The learned counsel for the respondent, who appears on advance notice, submits that at present the respondent is not proposing to invoke the bank guarantee on the basis of the letter dated 07.01.2019. He however, submits that the petitioner should keep the bank guarantee alive.

The learned counsel for the petitioner on the other hand submits that the period of validity of the bank guarantee is to expire on 31.03.2019.

In view of the above, whether the petitioner can be called upon to keep the bank guarantee alive or not is not a question to be determined by the Court at this stage.

In view of the submission made by the counsel for the respondent that at present there is no decision on invocation of the bank guarantee on the basis of the letter dated 07.01.2019, the present petition does not deserve any further order.

The petition is disposed of recording the statement of the learned counsel for the respondents.

Dasti.

NAVIN CHAWLA, J

JANUARY 24, 2019/rv