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

+ **O.M.P.(MISC.)(COMM.) 66/2024 & I.A. 2249/2024**

THE SOUTH INDIAN BANK LTD.

..... Petitioner

Through: Mr. Manish Dembla, Mr.
Pradyuman Sewar, Advs. (M.
9953658282)

versus

TRANSSTROY DINDIGUL THENI KUMILI

TOLLWAYS PVT. LTD., & ANR.

..... Respondents

Through: Ms. Sheena Taqui, Ms. Akansha
Saini, Mr. Shiv Vinayak Gupta and
Ms. Bina Gupta, Advs. for R-1 (M.
8604703339)

CORAM:

JUSTICE PRATHIBA M. SINGH

ORDER

% **31.01.2024**

1. This hearing has been done through hybrid mode.
2. The present petition has been filed by the Petitioner- The South Indian Bank Ltd. under Section 29A (5) of the Arbitration and Conciliation Act, 1996 seeking extension of mandate of the Id. Arbitral Tribunal.
3. As per the petition, a project for two-laning with paved shoulders of the Dindigul-Theni Section (from km 2.750 to km 73.400 of NH-45 (Extn)) and the Theni-Kumili Section (from km 215.500 to km 273.600 of NH-220) in Tamil Nadu was awarded by the Respondent No. 2-NHAI under the NHDP Phase-III to a consortium comprising the Respondent No. 1-Transstroy (India) Limited and Open Joint Stock Company Corporation. Thereafter, a Concession Agreement was signed between Respondent No.1 and Respondent No.2 on 12th July, 2010. The Petitioner also entered into a



Common Loan Agreement with Respondent No. 1 on 8th January, 2011, to finance the said Project.

4. Thereafter, a Tripartite Escrow Agreement was executed on May 4, 2011, between the Petitioner, Respondent No. 1, and Respondent No. 2, leading to the opening of an escrow account with the Petitioner. Disputes arising from the said Escrow Agreement led the Petitioner to invoke arbitration proceedings on 28th January, 2020.

5. According to Clause 10 of the Tripartite Escrow Agreement, disputes arising from the Escrow Agreement ought to be referred to a Board of Arbitrators. The said board is to consist of one nominee Arbitrator from the Authority i.e. Respondent No.2, the Concessionaire i.e. Respondent No.1, and the Petitioner. Thus, the Petitioner, appointed a retired judge as the nominee Arbitrator on behalf of the Lenders on 28th January, 2020, and Respondent No.2 appointed another retired judge as its nominee Arbitrator on 18th March, 2020. Subsequently, owing to Respondent No.1's failure to appoint its nominee Arbitrator, the Petitioner filed a petition before the Court under Section 11(6) of the Arbitration and Conciliation Act, 1996, leading to the Court's appointment of a third arbitrator on 12th May, 2022. The Arbitral Tribunal then issued a notice for a preliminary meeting to the parties, setting the date for the preliminary hearing on 26th May, 2022.

6. Subsequently, during the continuation of the proceedings, vide communications dated 13th September, 2023, 28th October, 2023 and 3rd November, 2023 the Id. Tribunal had recorded the consent of the parties to extend the mandate of the Id. Arbitral Tribunal.

7. It is stated by the Petitioner that the matter is at the stage of final arguments on behalf of the Respondent Nos. 2 and 3.



8. Heard. Considering that the matter is at the final stage, the extension as sought is not objected to by the Respondents. Accordingly, the mandate is extended till 30th September, 2024.
9. The petition is disposed of with all pending applications, if any.

PRATHIBA M. SINGH, J.

JANUARY 31, 2024

mr/dn