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

+ **O.M.P. (E) (COMM.) 9/2024 and I.A. 7280/2024**

M/S BAREILLY HIGHWAYS PROJECT LIMITED Petitioner

Through: Mr. Gurpreet Singh Sethi, Adv. (M-9868220903)

versus

**M/S NATIONAL HIGHWAYS AUTHORITY OF
INDIA**

..... Respondent

Through: Mr. Ankur Mittal and Mr. Ankur Saboo, Advs. (M- 8097559871)

CORAM:

JUSTICE PRATHIBA M. SINGH

ORDER

% **02.04.2024**

1. This hearing has been done through hybrid mode.
2. The present petition has been filed by the Petitioner/Claimant-M/s Bareilly Highways Projects Ltd. under Section 27 of the Arbitration and Conciliation Act, 1996 seeking directions for issuance of summons to witnesses to appear before the arbitral tribunal for recording of evidence in the matter titled '*M/s Bareilly Highways Projects Ltd (BHPL) v. National Highways Authority of India.*' The Petitioner is praying for the appearance of witnesses on the dates fixed before the Id. Arbitral Tribunal i.e. 5th April, 2024 and 6th April, 2024.
3. On 21st February, 2024, the Claimant/Petitioner herein submitted before the Id. Arbitral Tribunal that two witnesses on behalf of the Claimant including one in its employment and the other, an employee of the electricity department of the State of Uttar Pradesh would be examined. The Petitioner herein further stated that it would take steps to obtain orders for attendance of the second witness and hence, the present petition.



4. There is a dispute as to how many witnesses Petitioner wishes to summon. On behalf of the Respondent, it is submitted that the Petitioner is wanting to summon seven witnesses, for which no permission has been sought from the Arbitral Tribunal. On behalf of the Petitioner, it is submitted that since the headquarters of the electricity department is taking a position that the records are with different divisions of the electricity department, the Petitioner is constrained to seek summons for seven witnesses.

5. It is the settled position in law that in arbitral proceedings, strict rules of the CPC, 1908 and the Evidence Act, 1872 would not apply. It would be sufficient if one witness from the headquarters of electricity department, Uttar Pradesh, is summoned. The said witness would collect the relevant records from the relevant sub-divisions and produce the same before the Arbitral Tribunal.

6. Accordingly, summons be issued to the concerned official at the electricity department, State of Uttar Pradesh. Let the details be given to the Registry for issuance of summons and appearance before the Arbitral Tribunal.

7. Petition is disposed of in these terms. All pending applications, if any, are also disposed of.

PRATHIBA M. SINGH, J

APRIL 2, 2024/ Rahul/rks