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

+ **O.M.P.(I) (COMM.) 119/2024**

M/S KAMAC SHIVA HARLALKA JV Petitioner

Through: Mr. A.S. Chandhiok, Senior
Advocate with Ms. Dipika Sharma,
Ms. Surekha Raman, Mr. V.
Rajsekharan & Mr. Ranjit Pandey,
Advocates.

versus

**NATIONAL HIGHWAYS AND
INFRASTRUCTURE DEVELOPMENT
CORPORATION LIMITED & ANR.**

..... Respondents

Through: Ms. Ruchira Gupta, Ms. Harshita
Sharma & Ms. Sonu Sharma,
Advocates for R-1/NHIDCL.
Ms. Jagriti Ahuja, Advocate for R-
2/HDFC

**CORAM:
HON'BLE MR. JUSTICE PRATEEK JALAN**

ORDER

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25.04.2024

I.A. 8840-8841/2024(Exemption)

Exemption allowed, subject to all just exceptions.

The application stands disposed of.

O.M.P.(I) (COMM.) 119/2024 & I.A. 8842/2024

1. This petition under Section 9 of the Arbitration and Conciliation Act, 1996 [“the Act”], has been filed for interim measures of protection in anticipation of arbitration proceedings under an EPC Contract dated



01.09.2022 between the petitioner and respondent No. 1. The contract relates to four laning of NH-37 from Jhanjhi to Demow in the State of Assam.

2. In the course of hearing, learned counsel for the parties have taken instructions, and submit that the matter may be referred to arbitration of a Sole Arbitrator in these proceedings itself, and the present application may be considered as an application under Section 17 of the Arbitration and Conciliation Act, 1996, before the learned arbitrator.

3. With the consent of learned counsel for the parties, the petition is disposed of with the following directions: -

- a. The disputes between the parties are referred to arbitration of Hon'ble Mr. Justice S. Ravindra Bhat, former Judge, Supreme Court of India [Tel: 9818000160].
- b. The arbitration will be held under the aegis of Delhi International Arbitration Centre, Shershah Road, New Delhi-110503 ["DIAC"], and subject to the Rules of DIAC, including as to the remuneration of the learned Arbitrator.
- c. The learned Arbitrator is requested to furnish a declaration under Section 12 of the Act, prior to entering upon the reference.
- d. The present petition will be treated as an application under Section 17 of the Act before the learned Arbitrator.
- e. The respondent will file its reply to the application within two weeks from today or immediately upon the learned Arbitrator entering into reference, whichever is later.
- f. The parties may request the learned Arbitrator to consider the application under Section 17 of the Act at his earliest convenience,



at least on the question of *ad interim* orders.

4. It is made clear that this Court has not adjudicated the rights and contentions of the parties, even on a *prima facie* basis, and all rights and contentions are left open for adjudication by the learned Arbitrator.

5. The petition, alongwith pending application, stands disposed of with these directions.

PRATEEK JALAN, J

APRIL 25, 2024/‘pv’/