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

+ **O.M.P.(I) (COMM.) 221/2024**

M/S ANIL KUMAR AHUJA

.....Petitioner

Through: Mr Sunil K Mittal, Mr Vipin K
Mittal, Mr Anshul Mittal and Mr
Sameer Dawar, Advs.

versus

GOVT. OF NCT OF DELHI AND ANR

.....Respondents

Through: Mr Udit Malik, ASC (Civil) for
GNCTD with Mr Vishal Chanda,
Adv. for R-1.

CORAM:

HON'BLE MR. JUSTICE JASMEET SINGH

ORDER

10.07.2024

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I.A. 32810/2024

1. Exemption is granted subject to all just exceptions.
2. The petitioner shall file legible and clearer copies of exempted documents, compliant with practice rules before the next date of hearing.
3. The application is disposed of.

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4. This is a petition under Section 9 of the Arbitration and Conciliation Act, 1996 ("the Act") seeking restraint against respondent No.1 from encashing the FDR No. 41808202552 dated 05.04.2023 till the adjudication of disputes between the parties.
5. Mr Mittal, learned counsel for the petitioner states that the FDR was given in the form of a guarantee but there is no bank guarantee executed by the petitioner which permits the respondent from encashing the bank



guarantee unconditionally and merely on a demur.

6. It is further stated that it is the respondent who had inordinately delayed and did not provide the electrical drawings. In fact, there are e-mails as well as an internal letter dated 12.12.2023 wherein the respondents have restrained the petitioner from dismantling and carrying out any work until the drawings are approved by the technical committee. Based on these internal communications, the petitioner has been given regular extensions for completing the work, without any penalty.

7. In this view of the matter, *prima facie*, it seems that the work was delayed for the reasons beyond the petitioner's control. The FDR is though in the form of a guarantee, it is not an unconditional bank guarantee given by the petitioner.

8. For the said reasons, issue notice.

9. Mr Malik, learned ASC accepts notice on behalf of the respondents.

10. The respondents are restrained from encashing the FDR No. 41808202552 dated 05.04.2023 for a sum of Rs. 30,50,000/- subject to the condition that the petitioner shall keep the FDR alive during the pendency of the proceedings.

11. Since an Arbitrator has already been appointed in ARB.P. 989/2024, it is directed that this petition be treated as a petition under Section 17 of the Act and be disposed of in accordance with law.

12. Copy of the order passed today be sent to the learned Arbitrator appointed in ARB.P. 989/2024.

13. The petition is disposed of.

JASMEET SINGH, J

JULY 10, 2024/sr

[Click here to check corrigendum, if any](#)