

IN THE HIGH COURT AT CALCUTTA
COMMERCIAL DIVISION
ORIGINAL SIDE

AP-COM/604/2025
ITD-ITD CEM JOINT VENTURE
VS
KOLKATA METRO RAIL CORPORATION LIMITED

BEFORE:

The Hon'ble JUSTICE SHAMPA SARKAR

Date: 6th August 2025.

Appearance:

Mr. Ashok Kr. Banerjee, Sr. Adv.
Mr. Anal Kr. Ghosh, Adv.
Ms. Neelina Chatterjee, Adv.
...for petitioner.

Mr. Jishnu Chowdhury, Sr. Adv.
Ms. Sreya Basu Mallick, Adv.
Mr. Aritra Basu, Adv.
Mr. Ankit Dey, Adv.
Mr. Atvi Mandal, Adv.
... for respondent.

1. This is an application under Section 9 of the Arbitration and Conciliation Act, 1996 [hereinafter referred to as 'the said Act'].
2. The petitioner is a joint venture company. The petitioner entered into a contract with the respondent. The petitioner claims to have completed the entire work. The petitioner is apprehensive that the demand which was raised by the respondent sometime in December 2024, to the tune of Rs.12.89 crore, shall be adjusted with the bills of the petitioner.
3. Mr. Banerjee, learned senior advocate, submits that the demand vide letter dated December 10, 2024, was issued by the respondent to the

Project Director of the petitioner, towards rent for use of land, while executing the work. It is submitted that the demand was beyond the scope of the contract and was excessive. Rent was payable by the petitioner, to the extent of the land used. The respondent unilaterally enhanced the rent, without consulting the petitioner and claimed rent for a larger portion of the land, than what was used. Petitioner had paid the agreed rent for use of the land. Moreover, the entirety of the land mentioned in the said letter had not been used. Major portion of the land had been released and the respondent had accepted release of those lands.

4. It appears from the documents annexed to the application, that the land belonged to HIDCO. HIDCO had been pressurizing the respondent for payment of the rent and in turn the petitioner was being asked to deposit such rent, so that the claim of HIDCO could be liquidated. By a letter dated January 7, 2025, the petitioner informed the Chief Engineer (Civil), Kolkata Metro Rail Corporation Limited [KMRCL] that, the petitioner was unable to pay the land rent at any higher rate, than the agreed rent i.e., Rs.13.22 lakh per year, for the balance period payable and the respondent should reimburse the rental charge for the intervening non-productive period from June 1, 2013 to November 7, 2016. The Joint Venture of the petitioner could pay the rental with effect from November 8, 2016 till end of possession @ Rs.13.22 lakh per annum on a pro-rata basis, on actual possession of the land as mentioned in point No.3 of the said letter. Any additional payment of rent would have to be reimbursed by the respondent. By a letter dated June 3, 2025, the petitioner once again

reiterated its inability to pay land rent at any higher rate than the agreed and contractual rent of Rs.13.22 lakh per year, for the balance period payable. The respondent was required to reimburse the rental charge for the intervening non-productive period June 1, 2013 to November 7, 2016. The Joint Venture was to pay rent with effect from November 8, 2016, till end of possession @ Rs.13.22 lakh per annum on a pro-rata basis. Any additional payment of rent should be reimbursed by the respondent. The Court finds from page 248 of the petition that, according to the petitioner, a sum of Rs.72,18,653/- was payable as rent and not the sum claimed.

5. The correspondence which have been annexed to the application clearly indicate that the dispute with regard to the quantum of rent payable has been going on since long. No coercive action has yet been taken. It is brought to the notice of the Court that the petitioner has already invoked arbitration.
6. The prayer for injunction is made by Mr. Banerjee on the apprehension that the respondent might deduct the claim towards rent, which is the disputed amount, from the remaining payments to be made to the petitioner, for the works executed under the contract. The Court made a query as to whether any deduction was made from the subsequent payments which were received by the petitioner after the demand was raised by the respondent. Whether, the money claimed, or part thereof was adjusted against the bills paid. Mr. Banerjee fairly submits that no such deduction had been made, but it is apprehended that, such

deduction can take place in future. Mr. Banerjee prays for protection, to the extent that, a direction be issued restraining the respondent from deducting the amount claimed, from the payment due to the petitioner.

7. Injunction is passed on the assessment of balance of convenience and inconvenience and prima facie case. In my opinion, the petitioner has not been able to establish before this Court, even prima facie, that there is a threat of deduction of the rent from the bills. No such action has yet been taken by the respondent, although the dispute with regard to rent has been discussed between the parties through various correspondences, which are available to the court. The apprehension at this stage is premature. The notice was issued on December 10, 2024. Under such circumstances, no order of injunction need be passed. As the petitioner has already invoked arbitration, the petitioner shall take steps for constitution of the arbitral tribunal and all interim protections which are prayed before this Court, along with any other relief that may be available to the petitioner at the interim stage, shall be made before the learned arbitral tribunal.

8. AP-COM/604/2025 is disposed of.

(SHAMPA SARKAR, J.)