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

+ O.M.P.(I) (COMM.) 10/2025, I.A. 719/2025

M.D ESTHAPPAN INFRASTRUCTURES PVT LTD.....Petitioner

Through: Mr. Vipul Kumar, Mr. Pranav Garg,
Advocates

versus

GAIL INDIA LIMITED & ANR.Respondents

Through: Mr. Amit Kumar, Sr. Advocate with
Mr. Nishant Awana, Ms. Rini Badoni,
Ms. Nitya Sharma, Advs and
Mr.Bhuwan Yadav, Sr. Manager
(Law)

CORAM:
HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

ORDER
14.01.2025

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1. This petition under Section 9 of the Arbitration and Conciliation Act, 1996 has been filed by the Petitioner seeking declaration of invocation dated 11.01.2025 of Advance Bank Guarantee No.073BG01230520001 dated 21.02.2023 amounting to Rs.61,69,025/- by the Respondent No.1 as illegal, *non-est* and consequently set aside the said invocation dated 11.01.2025 and restrain the Respondents from invoking and/or en-cashing the Advance Bank Guarantee No.073BG01230520001 dated 21.02.2023 amounting to Rs.61,69,025/-.

2. Material on record indicates that the disputes have arisen between the parties under a contract of construction of boundary wall, control room



building, guard room gate complex, connecting pathway and road, development of terminal along with water supply and drainage etc., for terminal/station of 24” NC Line and other associated facilities/services of electrics/instrumentations/SCADA and Telecom etc. for making the terminal stations ready for functional which network is to connect the States of Karnataka and Tamil Nadu.

3. It is stated that a tender was floated by Respondent No.1 on 27.06.2018 and the said tender was awarded to the Petitioner. It is stated that the disputes have arisen between the parties under the Contract Agreement dated 12.03.2019 and that the said Contract was terminated on 30.05.2024. It is stated that the invocation letter was issued on 11.01.2025 by the Respondents for invoking the bank guarantee given by the Petitioner against mobilization advance given by the Respondents to the Petitioner.

4. Material on record discloses that the application under Section 9 of the Arbitration and Conciliation Act, 1996 was filed and the Arbitral Tribunal has already been constituted. It is stated that the bank guarantee has also stands en-cashed.

5. In view of the above, this Court is inclined to request the Arbitral Tribunal to treat the present petition as an application filed under Section 17 of the Arbitration and Conciliation Act, 1996.

6. Liberty is granted to the Petitioner to make appropriate amendment in the application.

7. The Arbitral Tribunal is requested to consider the application under Section 17 of the Arbitration and Conciliation Act, 1996 expeditiously.

8. The petition is disposed of along with pending application(s), if any.

9. It is made clear that this Court has not expressed any opinion on the



merits of the case.

SUBRAMONIUM PRASAD, J

JANUARY 14, 2025

RJ