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IN THE HIGH COURT OF DELHI AT NEW DELHI

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O.M.P.(I) (COMM.) 198/2025

PARSVNATH ESTATE DEVELOPERS PRIVATE LIMITED

.....Petitioner

Through: Mr. Jayant Mehta, Senior Advocate
with Mr. Deeptanshu Jain and Ms. Himanshi
Madan, Advocates.

versus

DELHI METRO RAIL CORPORATION PRIVATE LIMITED

.....Respondent

Through: Mr. Abhay Pratap Singh, Mr.
Saksham Singh and Ms. Mitali Umat, Advocates.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

03.07.2025

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1. This petition is filed on behalf of the Petitioner under Section 9 of the Arbitration and Conciliation Act, 1996 ('1996 Act') seeking the following reliefs:-

"a. Direct the Respondent to take appropriate steps / measures for immediate removal of encroachment from the common areas, driveways, passageways on the Ground Floor of the Property "Parsvnath Capital Tower" situated at Bhai Veer Singh Marg, New Delhi more specifically described in MAP attached with the Petition as Document No.1;

b. Restrain the Respondent or its affiliates from invoking the bank guarantee bearing BG No. 00070028116 issued by Punjab National Bank, Barakhamba Road for a sum of Rs. 6,72,00,000/- (Rupees Six Crores Seventy Two Lakhs Only) provided by the Petitioner;

c. Pass ex parte ad interim orders in terms of prayer (a) and (b) above; and"



2. Issue notice.
3. Mr. Abhay Pratap Singh, learned counsel accepts notice on behalf of the Respondent.
4. During the course of hearing, Mr. Jayant Mehta, learned Senior Counsel for the Petitioner submits that at this stage, Petitioner does not press the reliefs of direction to the Respondent to remove encroachments from the common areas, driveways etc. and/or restraint against invocation of the Bank Guarantee for a sum of Rs.6,72,00,000/- issued by Punjab National Bank and would be satisfied if a direction is issued to the Respondent to carry out inspection for the purpose of assessing the encroachments on the areas mentioned in the petition and reflected in the various photographs filed along with the petition from pages 292 to 309. According to Mr. Mehta, it is a contractual obligation of DMRC to ensure that the common areas, driveways, passageways on the ground floor of property 'Parasvnath Capital Tower', situated at Bhai Veer Singh Marg are kept free from encroachments.
5. Learned counsel for DMRC, on the other hand, refutes the allegations made by the Petitioner and submits that the reliefs sought by the Petitioner cannot be subject matter of adjudication in the present petition.
6. After some hearing, it is agreed between the parties that they are willing to refer the disputes to a three-member Arbitral Tribunal as envisaged in the arbitration clause 11.2.1 of the Concession Agreement dated 27.09.2010, executed between the parties. Mr. Mehta submits that Petitioner has nominated Mr. Justice M.L. Mehta, former Judge of this Court, as Petitioner's nominee Arbitrator while counsel for DMRC, on instructions, submits that Respondent has nominated Dr. H.R. Yadav, Retired ED, NCRTC, as its nominee Arbitrator.



7. Since the parties have appointed their respective nominee Arbitrators, the two Arbitrators are requested to appoint the third and Presiding Arbitrator to constitute the Arbitral Tribunal. As agreed between the parties, arbitral proceedings will be held under the aegis of Delhi International Arbitration Centre ('DIAC') and as per its Rules. Fee of the Arbitrators shall be as per fee schedule under DIAC (Administrative Cost & Arbitrators' Fees) Rules 2018.

8. Learned Arbitrators shall give disclosure under Section 12 of the 1996 Act before entering upon reference.

9. In the meantime, DMRC will conduct an inspection of the premises in question within four weeks from today to identify the encroachments in the areas mentioned in the present petition, taking into account the averments in the petition as also photographs filed from Pages 292 to 309. Inspection report will be placed before the learned Arbitral Tribunal for consideration.

10. As agreed between the parties, the learned Arbitral Tribunal shall treat this petition as an application under Section 17 of the 1996 Act and pass appropriate orders in accordance with law. Records of the petition will be digitally transmitted by the Registry to the Arbitral Tribunal within two weeks from today.

11. It is made clear that this Court has not expressed any opinion on the merits of the case and all rights and contentions of the respective parties are left open.

12. Petition stands disposed of in the aforesaid terms.

JYOTI SINGH, J

JULY 03, 2025/shivam