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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **O.M.P.(I) (COMM.) 495/2025 & I.A. 30044/2025**
M/S KALPATARU PROJECTS INTERNATIONAL LTD.

.....Petitioner
Through: Mr. Dayan Krishnan, Sr. Adv, Dr.
Sunil Mittal, Mr. Malak Bhatt, Ms.
Anu Tewari, Ms. Neeha Nagpal, Ms.
Chhavi Tokas, Mr. Sukrit Seth, Mr.
Shridhar Kale, Ms. Pragya Sharma,
Advs.

versus

CENTRAL PUBLIC WORKS DEPARTMENTRespondent
Through: Mr. R. Venkat Prabhat (SPC), Mr.
Vikrant Malwal (GP), Mr. Daksh
Pandit, Ms. Kamna Behrani, Mr.
Neeraj Paulose Raj with Mr. Mayank
Saxena, Executive Engineer, CPWD

CORAM:
HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

ORDER

% **03.12.2025**

I.A. 30043/2025 (Exemption)

Allowed, subject to all just exception.

O.M.P.(I) (COMM.) 495/2025

1. The present petition under Section 9 of the Arbitration and Conciliation Act, 1996 ["A&C Act"] has been filed by the Petitioner with the following prayers:

"a. Grant an ad-interim ex-parte stay on the letter dated 18.08.2025, bearing Reference No.54(5) / KA.



ABHI. I / SU. CO. PRO. M. / K.L.N.V. / 2025-26/ 523 issued by the Respondent to the Petitioner and letters dated 18.08.2025, 28.10.2025 and 11.11.2025 having Reference No. 54(5) / KA. ABHI. I/ SU.CO.PRO.M. / K.L.N.V. /2025-26/52454(5)/KA.ABHI-I/SU.KO.PRO.M/K.L.N.V./2025-26/663 and 54(5)/KA.ABHI-I/SU.KO.PRO.M/K.L.N.V./2025-26/705, respectively, issued by the Respondent to CPWD, Tirupati, all demanding the deposit of the amount of Rs.8,65,61,260/-; AND/OR

b. Grant an ad-interim ex-parte stay on any further coercive or recovery action (including any earlier or further demand letters to other CPWD projects by the Petitioner) to be taken by the Respondent basis the said letters, including invocation or encashment of any Bank Guarantees/Security Deposits/ adjustment or issuance of direction seeking such steps in relation to other projects of the Petitioner, for the purpose of recovering the disputed sum of Rs. 8,65,61,260/-; AND/OR

c. Pass such further orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case."

2. The facts, in brief, as narrated in the petition are that the Respondent had issued a Notice Inviting Tender for construction of an Additional Office Complex for the Supreme Court of India adjoining Pragati Maidan, New Delhi. The bid of the Petitioner was accepted on 05.12.2014. It is stated that the work commenced on 04.01.2015, and was completed by 11.09.2019. Subsequently, the defect liability period came to an end on 11.09.2020 and thereafter, the Completion Certificate was issued by the Respondent to the Petitioner on 21.05.2021.



3. Material on record indicates that another work for construction of the Permanent Campus of IIT, Tirupati – Phase-I was also given to the Petitioner by the Respondent under which the works were completed by 15.07.2023. The defect liability under this contract was for a period of 05 years post completion.
4. It is the case of the Petitioner that the Respondent has threatened to encash the Bank Guarantee/Security Deposit furnished by the Petitioner in the contract for constructing of Permanent Campus of IIT, Tirupati – Phase-I on the ground that the work which had been done by the Petitioner at Pragati Maidan, New Delhi was not satisfactory.
5. Without going into the merits of the case, this Court gave a suggestion to the learned Counsels for the both sides as to whether in view of the arbitration clause, this Court can appoint an Arbitrator to adjudicate upon the disputes between the parties and whether the present petition filed under Section 9 of the A&C Act can be treated as one filed under Section 17 of the A&C Act before the Arbitrator, the learned Counsel for the parties, on instructions, accept the said suggestion
6. Accordingly, Justice Jayant Nath, former Judge of this Court (Mob. No: 8527959494) is appointed as the Sole Arbitrator to adjudicate upon the disputes between the parties.
7. The Arbitrator shall be entitled to fee as per the Fourth Schedule of the A&C Act.
8. The Arbitrator is requested to enter reference expeditiously, preferably within a period of one week from today and an endeavour be made to decide the application under Section 17 of the A&C Act in accordance with law on or before 31.12.2025.



9. It is made clear that all the observations made in this Order are only restricted to the issue of appointment of an Arbitrator and not on the merits of the case.

10. Needless to state since the Respondent is an instrumentality of the State, it is expected that the Respondent that will not take any steps which will have the effect of overreaching the issue pending before the Arbitrator under Section 17 of the A&C Act.

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

SUBRAMONIUM PRASAD, J

DECEMBER 3, 2025

S. Zakir