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THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : I.A.(Civil)/3183/2026

M/S M P KHAITAN AND ANR
A PARTNERSHIP FIRM HAVING ITS REGISTERED OFFICE AT 15, GANESH CHANDRA AVENUE, 7TH FLOOR, KOLKATA 700 013, WEST BENGAL, BEING REPRESENTED BY MR. SANJAY KHAITAN

2: MR SANJAY KHAITAN
SON OF LATE MAHABIR PRASAD KHAITAN
RESIDENT OF INDRALAYA APARTMENT
97SD
BLOCK-E
NEW ALIPORE
KOLKATA 700 053
ONE OF THE PARTNERS OF THE PETITIONER NO. 1 FIRM

VERSUS

THE UNION OF INDIA AND ORS
REPRESENTED BY THE SECRETARY TO THE GOVERNMENT OF INDIA, MINISTRY OF HOUSING URBAN AFFAIRS, NIRMAN BHAWAN, C-WING, CENTRAL SECRETARIAT, NEW DELHI 110011.

2:NATIONAL BUILDINGS CONSTRUCTION CORPORATION INDIA LTD
OFFICE AT NBCC HOUSE 6TH FLOOR HOUSEFED COMPLEX WEST END BLOCK GUWAHATI ASSAM 781006

2:THE CHIEF GENERAL MANAGER
NBCC INDIA LIMITED NBCC
NBCC HOUSE
6TH FLOOR
HOUSEFED COMPLEX
WEST END BLOCK
GUWAHATI
ASSAM 781006.

3:SASHASTRA SEEMA BAL
37TH BATTALION MANGALDOI PO DHULA PS NZ SHYAMBARI PIN 784146
DIST DARRANG ASSAM

3:THE DEPUTY GENERAL MANAGER ENGINEERING
NBCC INDIA LIMITED NBCC
NBCC HOUSE
6TH FLOOR
HOUSEFED COMPLEX
WEST END BLOCK
GUWAHATI
ASSAM 781006.

4:THE ASSISTANT GENERAL MANAGER FINANCE
NBCC INDIA LIMITED NBCC

NBCC HOUSE
6TH FLOOR
HOUSEFED COMPLEX
WEST END BLOCK
GUWAHATI
ASSAM 781006.

5:THE DEPUTY PROJECT MANAGER TECHNICAL
NBCC INDIA LIMITED NBCC

NBCC HOUSE
6TH FLOOR
HOUSEFED COMPLEX
WEST END BLOCK
GUWAHATI
ASSAM 78100

Advocate for the Petitioner : DR. ASHOK SARAF, MR. P BARUAH,MR. N N DUTTA,MR P K BORA,MR. A. KAUSHIK

Advocate for the Respondent : MR. S S ROY, MR. M K DAS

BEFORE
HONOURABLE MR. JUSTICE KAUSHIK GOSWAMI

ORDER

Date : 16.11.2026

Heard Mr. A. Kaushik, learned counsel appearing for the applicants. Also heard Mr. S.S. Roy, learned counsel appearing for the respondent Nos. 1 and 7 and Ms. Z. Anjum, learned counsel appearing on behalf of Mr. M.K. Das, learned conducting counsel for the respondent Nos. 2 to 6.

2. By way of this impleading application, the applicants seek to implead National Buildings Construction Corporation (India) Limited, having its office at NBCC house, 6th Floor, Housefed Complex, West end block, Guwahati, Assam, 781006 and Sashastra Seema Bal, 37th Battalion, Mangaldoi, PO- Dhula, PS-Niz Shyamabari, Pin- 784146, District-Darrang, Assam, as a party respondents in WP(C) No. 2121/2025.

3. It is contended on behalf of the applicants that Respondent Nos. 2 to 5, in their affidavit-in-opposition filed in the connected writ petition, had specifically raised an objection regarding the non-impleadment of National Buildings Construction Corporation (India) Limited (hereinafter referred to as 'NBCC'), contending that NBCC, being the authority which had issued the tender in question and undertaken the subsequent actions forming the subject matter of challenge in the writ petition, was a necessary and proper party to the proceedings. It was, accordingly, contended that, in the absence of NBCC, the writ petition was not maintainable.

4. It is further submitted that the presence of the Sashastra Seema Bal (hereinafter referred to as 'SSB') is also necessary for the effective

adjudication of the writ petition, as SSB is the ultimate beneficiary of the project, for whose benefit the construction work in question was executed by the applicant-contractor.

5. In view of the aforesaid objections raised on behalf of Respondent Nos. 2 to 5, the applicants have preferred the present interlocutory application under Order I Rule 10(2) of the Code of Civil Procedure, 1908, seeking impleadment of NBCC and SSB as party respondents in the connected writ petition, registered as WP(C) No. 2121/2025.

6. The applicants have stated that the writ petition was instituted challenging the alleged arbitrary action of the respondent authorities in withholding the Performance Bank Guarantee amounting to Rs. 2,03,26,700/-, notwithstanding the fact that the works covered under Notice Inviting Tender No. NBCC/H-RBG/NER/SSB-MANGALDOI/2013/06 dated 17.12.2013 had been completed on 27.01.2021 and the validity period of the Integrity Pact had also expired.

7. It is further stated that, when the writ petition came up for consideration on 25.04.2025 and notice was issued, it was noticed that NBCC had inadvertently not been impleaded as a party respondent, although the concerned officers of NBCC (India) Limited had already been arrayed as respondents in the writ petition. According to the applicants, the omission was purely inadvertent and bona fide and was neither intentional nor deliberate. Since NBCC was the authority with which the applicant-contractor had entered into the contract and which had issued the tender and dealt with the subsequent contractual matters, its presence is necessary for the proper adjudication of the controversy involved in the writ petition.

8. With regard to the proposed impleadment of SSB, the applicants have submitted that Respondent Nos. 2 to 5, in their affidavit-in-opposition dated 09.06.2026, raised specific contentions concerning the role of SSB in relation to the project, particularly with regard to the alleged failure on the part of SSB to take over the completed project and the reasons attributed thereto. It is contended that, since the aforesaid issues directly concern the role and actions of SSB in relation to the project, its presence has become necessary for the complete and effective adjudication of the matters in controversy.

9. The applicants have also explained that SSB was not impleaded at the time of institution of the writ petition as the contract in question had been entered into exclusively between Applicant No. 1-Firm and NBCC, while SSB was only the client and ultimate beneficiary of the project. The applicants had no direct contractual dealings with SSB concerning the execution of the work, processing of bills, extension of time, Performance Bank Guarantee, Security Deposit or any other contractual obligation, all such matters having been dealt with by and through NBCC. It is, therefore, their case that there was no occasion to implead SSB at the initial stage of the proceedings. However, in view of the specific pleadings and contentions subsequently raised by Respondent Nos. 2 to 5 in their affidavit-in-opposition, the presence of SSB has become necessary for the proper and complete adjudication of the controversy.

10. In the aforesaid circumstances, the applicants seek to implead NBCC, having its office at NBCC House, 6th Floor, Housefed Complex, West End Block, Guwahati, Assam – 781006, and SSB, 37th Battalion, Mangaldoi, P.O. Dhula, P.S. Niz-Shyamabari, PIN – 784146, District – Darrang, Assam, as Respondent Nos. 6 and 7, respectively, in the

connected writ petition.

11. Upon consideration of the submissions advanced by the learned counsel for the parties and the materials available on record, this Court is of the view that the proposed impleadment of NBCC and SSB is necessary for the proper, complete and effective adjudication of the issues involved in the writ petition. NBCC, being the authority which issued the tender and entered into the contractual arrangement with the applicant-contractor, has a direct and substantial connection with the subject matter of the dispute. Further, the pleadings in the affidavit-in-opposition filed by Respondent Nos. 2 to 5 bring into focus the role of SSB, particularly with regard to the taking over of the project, which also warrants its presence for an effective determination of the controversy.

12. In view of the above, this Court finds merit in the present interlocutory application. Accordingly, the same stands allowed. The National Buildings Construction Corporation (India) Limited (NBCC) and the Sashastra Seema Bal (SSB) are hereby impleaded as Respondent Nos. 6 and 7, respectively, in the connected writ petition, WP(C) No. 2121/2025.

13. The applicants shall take necessary steps for carrying out the requisite amendments in the cause title of the writ petition and for service of notice upon the newly impleaded respondents.

14. The interlocutory application stands disposed of accordingly.

JUDGE

Comparing Assistant