

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
COMMERCIAL ARBITRATION PETITION NO. 1151 OF 2025

Chetak Apco JV

.....PETITIONER

: VERSUS :

National Highway Division

....RESPONDENT

Mr. Rohaan Cama with Mr. Shanay Shah and Mr. Aditya Trivedi i/b. Induslaw for the Petitioner.

Ms. Riya Jariwala (through VC) i/b. Mr. Sagar Ladda for the Respondent.

CORAM : SANDEEP V. MARNE, J.

DATED : 4 FEBRUARY, 2026.

P.C :

1) This is a petition filed under Section 9 of the Arbitration and Conciliation Act, 1996 (**Arbitration Act**) seeking interim measures before commencement of the arbitral proceedings.

2) On 3 September 2025, this Court has passed ad-interim order directing the Respondent-National Highway Division, (Public Works) (**NHD**) not to take any further action for encashment of bank guarantee in pursuance of letter dated 30 September 2024. The petition thereafter appeared before the Court on several dates. On 8 January 2026, the

learned counsel appearing for the Respondent made a statement that efforts were being made to resolve the disputes and differences through reconciliation. The Court had made it clear that it cannot keep the petition pending indefinitely till outcome of the reconciliation proceedings. The NHD was accordingly directed to conclude the reconciliation proceedings within 2 weeks.

3) The petition thereafter came up for hearing on 3 February 2026 when it was reported that conciliation proceedings were still not concluded. This Court accordingly enquired with the learned counsel appearing for the Petitioner and Respondent as to whether the Arbitral Tribunal could be constituted and Petitioner could be relegated to remedy under Section 17 of the Arbitration Act by continuing the ad-interim protection till decision of Section 17 petition. Petitioner showed willingness in respect of the suggestion. Mr. Sagar Varma, the learned counsel who appeared on behalf of the Respondent on 3 February 2026, also showed agreement for constitution of Arbitral Tribunal but there was some degree of debate on selection of the sole Arbitrator. Mr. Varma sought an adjournment for taking instructions about appointment of the sole Arbitrator. This is how proceedings were adjourned on 3 February 2026 and are listed today essentially for the purpose of constitution of Arbitral Tribunal.

4) Today, a different Advocate Ms. Riya Jariwala has appeared on behalf of the Respondent and she submits that she has received instructions to oppose the Arbitration Petition on merits and that she has

no instructions for constitution of the Arbitral Tribunal. It appears that both Mr. Sagaar Varma, as well as Ms. Riya Jariwala have appeared in the petition on behalf of Mr. Sagaar Ladda who is the Advocate of Respondent-NHD. This Court does not appreciate the manner in which the proceedings are conducted by the Respondent before this Court.

5) Accordingly, the petition has been heard on merits today. As the hearing of the petition progressed, Ms. Jariwala has made a statement that the conciliation proceedings have commenced in June 2025 and on account of complex nature of disputes between the parties, it would take substantial time for conclusion of the conciliation proceedings. Mr. Cama, the learned counsel appearing for the Petitioner invites the attention of the Court to the letter dated 9 December 2024 of Executive Engineer of Ministry of Road Transport & Highways, Government of India, in which the assurance is given that the bank guarantee shall not be encashed till outcome of the conciliation proceedings. Ms. Jariwala submits that the assurance given in the letter dated 9 December 2024 shall continue throughout the completion of the conciliation proceedings and that the Respondent-NHD shall not encash the bank guarantee till conclusion of the conciliation proceedings provided that the same are kept alive by the Petitioner. Mr. Cama assures the Court that the bank guarantees shall be kept alive till conclusion of the conciliation proceedings.

6) In my view, therefore the petition can be disposed off by passing following directions :

(i) Till conclusion of conciliation proceedings and for a period of four weeks from the date of intimation of conclusion of the conciliation proceedings, the Respondent-NHD is restrained from invoking and/or encashing bank guarantees submitted by the Petitioner. The Petitioner shall keep alive the bank guarantees till conclusion of the conciliation proceedings.

(ii) In the event the conciliation proceedings do not result in a favourable outcome to the Petitioner, it would be at liberty to file a fresh petition under Section 9 of the Arbitration Act for seeking interim measures.

(iii) All rights and contentions of the parties are expressly kept open.

7) With the above directions, the petition is **disposed of**.

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[SANDEEP V. MARNE, J.]