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

+ O.M.P.(I) (COMM.) 134/2026 & I.A. 8567/2026

**M S LAKSHMI INFRASTRUCTURE AND DEVELOPERS INDIA
PRIVATE LIMITED**Petitioner

Through: Mr. Anil K. Airi, Sr. Adv. with
Mr. Abhimanyu Kumar, Ms. Bindiya
Longawney Airi, Mr. Vishal Tyagi,
Ms. Riya Sagar, Ms. Jasmine Sokhi,
Mr. Harsh Gautam and Ms. Sadhna
Sharma, Advs.

versus

NATIONAL HIGHWAYS AUTHORITY OF INDIARespondent

Through: Ms. Tanu Priya Gupta and Ms.
Khushi Sharma, Advs.

CORAM:

HON'BLE MR. JUSTICE VIKAS MAHAJAN

ORDER

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29.05.2026

[The matters are taken up today as 28.05.2026 was declared as holiday on account of Id-Ul-Zuha (Bakrid)]

1. The present petition has been filed by the petitioner under Section 9 of the Arbitration and Conciliation Act, 1996 (hereinafter 'the Act') praying for stay of operation and effect of the Notice of Intention to Terminate dated 16.03.2026, issued by the respondent with respect to the Contract Agreement dated 09.05.2022.
2. The petitioner has further prayed for seeking interim measure staying forthwith the invocation of Performance Bank Guarantee bearing no.



779401GL0001022 dated 08.10.2025 for an amount of Rs.12,03,52,651/- as well as Surety Bond bearing no. 12-6621-0007517176-00 dated 02.07.2025 for an amount of Rs.22,06,46,528/-, submitted by the petitioner to the respondent.

3. The case set out in the present petition is that respondent was entrusted with 6-laning of existing 4-lane stretch of NH-44 from Gundlapochampally (Design chainage Km 471.300) to Bowenpally (Design chainage Km 481.331) total length 10.031 km, in the State of Telangana on EPC mode under Bharatmala Pariyojana on Engineering, Procurement and Construction basis.

4. It is further submitted that despite petitioner having achieved Milestone-I and Milestone-II, further progress became almost impossible due to reasons solely attributable to the respondent. As such, under compelling circumstances, petitioner was constrained to and forced upon to enter into a Settlement Agreement dated 17.01.2025 (in short 'SA-I') which clearly recorded reasons for lack of progress.

5. It is further stated that the project originally scheduled for completion on 30.07.2024, stood prolonged on account of respondent's defaults, thereby causing significant financial hardship to the petitioner.

6. Subsequently, respondent once again compelled and forced upon the claimant/petitioner to enter into another Settlement Agreement dated 05.06.2025 (in short 'SA-II'). The above was followed by the issuance of cure period notice dated 15.12.2025 issued by the respondent to the petitioner. The claimant/petitioner was once again forced to enter into a third Settlement Agreement dated 23.12.2025 (in short 'SA-III').

7. The petitioner opened an escrow account on the extra-contractual



insistence of the respondent on 13.02.2026 and thereafter on 16.03.2026, the petitioner credited an amount of Rs.5 crores to the said escrow account.

8. Thereafter, respondent issued the Notice of Intention to Terminate dated 16.03.2026, thereby frustrating the petitioner's *bona fide* efforts to expedite the project.

9. This Court notes that when notice was issued in the present case on 30.03.2026, Ms. Tanu Priya Gupta, learned counsel appearing on behalf of the respondent accepted the notice and was asked by the Court to seek instructions as regards recovery and encashment of Bank Guarantee (BG) and also to seek instructions with regard to appointment of an Arbitrator in the present proceedings with the consent of the parties.

10. The Court also notes that on 16.04.2026 when the matter was listed, Ms. Gupta had pointed out that petitioner had removed the plant and machinery substantially from the site and is in the process of further removing the remaining part of it.

11. In response, Mr. Anil K. Airi, learned Sr. Counsel appearing on behalf of the petitioner had, on instructions, stated that petitioner will hold its hand insofar as removal of further plant and machinery from the site in question is concerned. He also apprised the Court that validity of the bank guarantee has already been extended.

12. In this backdrop, the Court had directed the respondent not to encash the bank guarantee and surety bond till the next date of hearing.

13. In the meanwhile, the parties had initiated the process for constitution of Arbitral Tribunal under the aegis of the Society for Affordable Resolution of Dispute (hereinafter referred to as 'SAROD').

14. On 20.05.2026 when the matter was listed, learned counsel for the



parties jointly stated that they will endeavour to get the Arbitral Tribunal constituted before the next date of hearing.

15. Since, there is no dispute as to the existence of the arbitration clause and the parties have already nominated their nominee arbitrators, following further directions are issued with the consent of the parties:

- i. The nominee arbitrators nominated by the parties are requested to nominate the third arbitrator, who shall act as a Presiding Arbitrator;
- ii. The arbitration proceedings shall be conducted under the aegis and as per Rules of SAROD.
- iii. The Arbitral Tribunal shall furnish the declaration in terms of Section 12 of the Act prior to entering upon the reference.
- iv. Upon constitution of the Arbitral Tribunal, the present petition under Section 9 of the Act shall be treated as one under Section 17 of the Act and will be decided by the learned Arbitral Tribunal on its own merits.
- v. All the rights and contentions of the parties are left open for adjudication by the learned Arbitral Tribunal.
- vi. Further considering the facts and circumstances of the present case, it is directed that respondent shall not encash the bank guarantee, as well as, the surety bond for a period of three weeks from today.
- vii. The petitioner shall continue to keep the bank guarantee and surety bond alive till the application under Section 17 of the Act is finally decided by the Arbitral Tribunal.
- viii. The petitioner shall not further remove the plant and machinery



from the site in question.

16. Needless to say that any observation made hereinabove shall not be construed as an expression of an opinion on the merits of the case, which shall be adjudicated by the learned Arbitral Tribunal uninfluenced by any such observation.

17. With the aforesaid directions, present petition along with pending applications, is disposed of.

VIKAS MAHAJAN, J

MAY 29, 2026/jg