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

+ O.M.P.(I) (COMM.) 144/2026 & I.A. 8932/2026, I.A. 8933/2026,
I.A. 8934/2026

M S LAKSHMI INFRASTRUCTURE AND DEVELOPERS INDIA
PRIVATE LIMITED

.....Petitioner

Through: Mr. Anil K. Airi, Sr. Adv. with Mr.
Abhi Manyu 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

29.05.2026

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*[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 Termination dated 28.03.2026, issued by the respondent with respect to the Contract Agreement dated 20.12.2022.

2. The petitioner further prays for seeking interim measure staying forthwith the invocation of the following bank guarantees submitted by the petitioner to the respondent:



S. No.	BG No.	Amount (INR)
1.	79220GI1D0626725	8,55,47,111.00
2.	79220GI1D0628025	8,55,47,111.00
3.	79220GI1D2016225	5,87,17,080.00
4.	79220GI1D2011925	5,87,17,081.00
5.	79220IG L0000722	1,49,00,000.00
6.	79220IGL0000822	3,17,62,061.00
7.	79220IGL0000423	4,66,62,060.00

3. Further, the petitioner also seeks an order of injunction restraining the respondent, its agents, servants, or any other person acting on its behalf, from taking over, seizing, or in any manner interfering with the petitioner's material, planned, and works at the site.

4. 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 Thondupally at km 23.300 to Kothur at km 34.14 on Bangalore-Hyderabad Section total length of 11.844 Km in the State of Telangana on EPC mode under Bharatmala Pariyojana on Engineering, Procurement and Construction basis.

5. It is further submitted that the respondent failed to handover the land in terms of EPC Agreement and the petitioner issued letters/notices dated 14.09.2023, 25.09.2023, 03.10.2023 and 20.10.2023. The respondent *vide* letter dated 30.10.2023 disagreed to the aforesaid notices issued by the petitioner.

6. As a result, disputes arose between the parties which were referred to DRB in terms of Dispute Resolution Clause 26 of EPC Agreement.

7. Despite the failure on behalf of the respondent to provide the requisite ROW, they issued notice of Intention to Terminate dated 08.08.2024 under



Clause 23 of EPC Agreement.

8. Aggrieved by the said Notice of Intention to Terminate, the petitioner approached this Court *vide* a petition under Section 9 of the Act, bearing no. O.M.P.(I)(COMM) 270/2024 seeking stay on the notice dated 08.08.2024 which was granted *vide* order dated 21.08.2024.

9. On 13.09.2024, DRB gave its decision with the suggestion to the parties to reconcile the status of availability of clear work front as per the schedule project completion date.

10. As such, under compelling circumstances the petitioner was forced by the respondent to execute a settlement agreement dated 13.02.2025 (in short 'SA-I').

11. Due to heavy rainfall from July, 2025 to October, 2025 it made the work unfeasible to carry out. Despite the same, even after entering into SA-I the respondent arbitrarily and illegally issued a cure period notice dated 08.12.2025 to the petitioner. Even though the respondent made categorical admissions of its own default in SA-I, it attempted to wrongly attribute the entire delay to the petitioner alone.

12. Subsequently, the petitioner was once again compelled by the respondent to enter into another settlement agreement dated 23.12.2025 (in short 'SA-II') wherein the petitioner was asked to achieve a certain level of progress by March, 2026.

13. The petitioner opened an escrow account on the extra-contractual insistence of the respondent on 06.02.2026, subsequent to which the petitioner credited an amount of Rs. 5 crores to the said escrow account. Despite the same, the respondent arbitrarily issued the notice of Intention to Terminate on 12.03.2026.



14. The petitioner replied to the respondents notice of Intention to Terminate dated 12.03.2026, on 26.03.2026. Thereafter, the respondent issued a termination notice dated 28.03.2026 to the petitioner.

15. This Court notes that when notice was issued in the present case on 02.04.2026, Ms. Tanu Priya Gupta, learned counsel appearing on behalf of the respondent accepted the notice and was directed by the Court to maintain *status quo* regarding encashment of Bank Guarantee (BG).

16. 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 further in the process of removing the remaining part of it.

17. 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.

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

19. 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').

20. 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.

21. Since, there is no dispute as to the existence of the arbitration clause and the parties have already nominated their nominee arbitrators, the



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.

22. 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.

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

VIKAS MAHAJAN, J

MAY 29, 2026/dss