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

+ **O.M.P.(I) (COMM.) 398/2024**

EGIS INDIA CONSULTING ENGINEERS PVT LTD

.....Petitioner

Through: Mr. Atul Agarwal, Advocate.

versus

**INDIAN HIGHWAYS MANAGEMENT COMPANY
LIMITED**

.....Respondent

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

CORAM:

**HON'BLE MR. JUSTICE HARISH VAIDYANATHAN
SHANKAR**

ORDER

16.01.2026

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1. The present petition has been filed, seeking certain reliefs, under Section 9 of the Arbitration and Conciliation Act, 1996 [**“the Act”**].

2. By way of an Order dated 21.11.2024, certain interim reliefs were granted to the Petitioner herein.

3. Concededly, no action has been taken on behalf of the Petitioner to commence Arbitration since the passing of the Order dated 21.11.2024. The Petitioner has not even preferred a Notice under Section 21 of the Act.

4. It is trite law that when a Petitioner approaches this Court for immediate and urgent orders under Section 9 of the Act, he should also show readiness and willingness in resorting to the Arbitration. In



Sundaram Finance Ltd. v. NEPC India Ltd.¹, the Apex Court held that where an application under Section 9 of the Act is made, prior to the commencement of arbitral proceedings, the applicant must establish a definite intention to initiate arbitration. The relevant paragraph is extracted as follows:

“19. When a party applies under Section 9 of the 1996 Act, it is implicit that it accepts that there is a final and binding arbitration agreement in existence. It is also implicit that a dispute must have arisen which is referable to the Arbitral Tribunal. Section 9 further contemplates arbitration proceedings taking place between the parties. Mr Subramaniam is, therefore, right in submitting that when an application under Section 9 is filed before the commencement of the arbitral proceedings, there has to be manifest intention on the part of the applicant to take recourse to the arbitral proceedings if, at the time when the application under Section 9 is filed, the proceedings have not commenced under Section 21 of the 1996 Act. In order to give full effect to the words “before or during arbitral proceedings” occurring in Section 9, it would not be necessary that a notice invoking the arbitration clause must be issued to the opposite party before an application under Section 9 can be filed. The issuance of a notice may, in a given case, be sufficient to establish the manifest intention to have the dispute referred to an Arbitral Tribunal. But a situation may so demand that a party may choose to apply under Section 9 for an interim measure even before issuing a notice contemplated by Section 21 of the said Act. If an application is so made, the court will first have to be satisfied that there exists a valid arbitration agreement and the applicant intends to take the dispute to arbitration. Once it is so satisfied, the court will have the jurisdiction to pass orders under Section 9 giving such interim protection as the facts and circumstances warrant. While passing such an order and in order to ensure that effective steps are taken to commence the arbitral proceedings, the court while exercising jurisdiction under Section 9 can pass a conditional order to put the applicant to such terms as it may deem fit with a view to see that effective steps are taken by the applicant for commencing the arbitral proceedings. What is apparent, however, is that the court is not debarred from dealing with an application under Section 9 merely because no notice has been issued under Section 21 of the 1996 Act.”

5. Since the Petitioner herein has taken no steps towards recourse

¹(1999) 2 SCC 479



to arbitral proceedings prior to the application filed under Section 9 of the Act, and has further remained silent for over a year since the Order dated 21.11.2024, it is manifest that there was no intent on the part of the Petitioner to take recourse with regards the resolution of disputes by a reference to Arbitration, and in this view, this Court is of the opinion that the present petition ought to be dismissed.

6. Accordingly, the present petition is dismissed.

HARISH VAIDYANATHAN SHANKAR, J
JANUARY 16, 2026/tk/her/dj