

ITEM NO.10

COURT NO.5

SECTION XI

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

SPECIAL LEAVE PETITION (CIVIL) Diary No(s). 28531/2019

(Arising out of impugned final judgment and order dated 03-01-2019 in ACA No. 151/2018 29-03-2019 in ACA No. 151/2018 passed by the High Court Of Judicature At Allahabad)

CENTRAL ORGANISATION FOR RAILWAY ELECTRIFICATION      Petitioner(s)

VERSUS

M/S ECI SPIC SMO MCML (JV) A JOINT VENTURE COMPANY Respondent(s)  
(FOR ADMISSION and I.R. and IA No.134458/2019-CONDONATION OF DELAY  
IN FILING )

Date : 30-09-2019 This petition was called on for hearing today.

CORAM :

HON'BLE MRS. JUSTICE R. BANUMATHI  
HON'BLE MR. JUSTICE HRISHIKESH ROY

For Petitioner(s)      Mr. Atmaram N.S.Nadkarni, ASG  
                                 MR. Jitin Singhal, Adv.  
                                 Mr. S.S. Rebello, Adv.  
                                 Mrs. Rashmi Malhotra, Adv.  
                                 Mr. Pawan Sankhla, Adv.  
                                 Mr. Raj Bahadur Yadav, AOR

For Respondent(s)      Mr. Sridhar Potaraju, AOR  
                                 Ms. Shweta Parihar, Adv.  
                                 Ms. Shiwani Tushir, Adv.  
                                 Ms. G. Usha Sri, Adv.

UPON hearing the counsel the Court made the following  
O R D E R

Delay condoned.

Mr. ANS Nadkarni, learned Additional Solicitor General appearing on behalf of the petitioner has drawn our attention to the General Conditions of Contract 64(3)(a)(i), 64(3)(a)(ii) read with 64(3)(b) and submitted that in view of such clauses, the High Court could not have appointed the sole arbitrator deviating from

the agreed terms. In this regard learned ASG has placed reliance upon the judgment of this Court reported in *2017 (4) SCC 665 - Voestalpine Schienen GMBH vs. Delhi Metro Rail Corporation Limited*. Learned ASG has also placed reliance upon the judgment of this Court in *C.A. No. 3308 of 2019 etc. - Union of India vs. Parmar Construction Company* dated 29th March, 2019. Learned ASG *inter alia* has also raised other contentions.

Having regard to above submissions, issue notice.

Mr. Sridhar Potaraju, learned counsel appearing on behalf of the respondent who appears on caveat accepts notice .

There shall be stay of further proceedings before the Arbitral Tribunal till the next date of hearing.

Three weeks' time is granted to the learned counsel for the respondent to file counter affidavit. Rejoinder affidavit, if any, be filed within two weeks thereafter.

List the matter on 19th November, 2019 at 2.00 P.M.

(MADHU BALA)  
COURT MASTER (SH)

(PARVEEN KUMARI PASRICHA)  
BRANCH OFFICER