

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

Petition(s) for Special Leave to Appeal (C) No(s).35087/2017

[Arising out of impugned final judgment and order dated 27-10-2017 in FAO(OS) (Comm.) No.166/2017 passed by the High Court Of Delhi At New Delhi)

NATIONAL HIGHWAY AUTHORITY OF INDIA

Petitioner(s)

VERSUS

M/S. JETPUR SOMNATH TOLLWAYS LIMITED

Respondent(s)

(FOR ADMISSION and I.R. and IA No.138559/2017-PERMISSION TO FILE ADDITIONAL DOCUMENTS)

WITH

[ITEM NO.51 - S.L.P. (C)NO.36692 OF 2017]

Date : 05-01-2018 These petitions were called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE A.M. KHANWILKAR
HON'BLE DR. JUSTICE D.Y. CHANDRACHUD

For Petitioner(s) Mr. Tushar Mehta, ASG
Mrs. Gunjan Sinha Jain, Adv.
Mr. Ashok C. Parkash Malhotra, Adv. for
M/s. M. V. Kini & Associates, Advs. [AOR]

For Respondent(s)/ Mr. Kapil Sibal, Sr. Adv.
Caveator (s) Mr. Shyam Diwan, Sr. Adv.
Mr. Ajay Sondhi, Adv.
Ms. Surbhi Mehta, Adv.
Mr. Vaibhav Gulia, Adv.
Ms. Rakhi Ray, Adv. [AOR]

Mr. Gourab Banerji, Sr. Adv.
Mr. Manmeet Singh, Adv.
Mr. Mayank Grover, Adv.
Mr. Anugrah Robin Frey, Adv.
Ms. Anjali Anchayil, Adv.
Mr. Faisal Sherwani, Adv.

UPON hearing the counsel the Court made the following

O R D E R

Heard Mr. Tushar Mehta, learned Additional Solicitor General along with Ms. Gunjan Sinha Jain, learned counsel for the

petitioner; Mr. Kapil Sibal, learned senior counsel and Mr. Gourab Banerji, learned senior counsel for the respective respondent-caveators.

Having heard learned counsel for the parties, we are inclined to issue the following directions :

- (i) The finding by the High Court with regard to encashment of bank guarantee is affirmed.
- (ii) The petitioner shall pay a sum of Rs.348.604 crores within a span of six weeks from today.
- (iii) If the bank seeks arbitration and the petitioner seeks arbitration against the bank, the same shall be arbitrated upon.
- (iv) The amount shall be kept in the Escrow Account as directed by the High Court.
- (v) Any finding recorded by the learned Single Judge or the Division Bench on the merits of the claim shall not be relied upon in the arbitration proceedings.

The Special Leave Petitions are disposed of accordingly.

(Subhash Chander)
AR-cum-PS

(H.S. Parasher)
Assistant Registrar