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

+ **W.P.(C) 3803/2026 and CM APPL. 18609/2026**

Date of decision: **24.03.2026**

PSL INFRATECH PVT LTD

.....Petitioner

Through: Mr. P. Roychaudhuri, Mr. Gagan
Gupta, Advocates

versus

NATIONAL HIGHWAYS AUTHORITY OF INDIA

.....Respondent

Through: Mr. Santosh Kumar, Standing
Counsel and Mr. Ritik Dwivedi
Advocate for respondent no. 1.

CORAM:

HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

J U D G E M E N T

PURUSHAINDRA KUMAR KAURAV, J. (ORAL)

1. The instant petition seeks a direction to the respondent-National Highway Authority of India (“**NHAI**”) to release the unpaid Force Majeure Claim for the period from 01.02.2021 to 04.05.2021.

2. The facts as stated by the petitioner appear to be that on 13.10.2020 NHAI awarded the petitioner a contract for collection of user fee at the Banajodi to Panikholi Section Toll Plaza, Odisha for the period from 15.10.2020 to 15.10.2021 (“**Contract**”). It is stated that owing to the COVID-19 pandemic the toll collections were severely affected. The petitioner, thereafter, *vide* a letter dated 30.10.20220 addressed to the Project



Director, Keonjhar, Odisha, sought the termination of the Contract and also made Force Majeure Claims (“FCMs”) for the period from 30.10.2020 to 24.09.2021. Upon the situation purportedly not improving, the petitioner issued a notice to the Project Implementation Unit (‘PIU’), Keonjhar, Odisha, seeking the aforementioned. Various other representations/letters/emails were also exchanged between the petitioner and the PIU, Keonjhar, Odisha.

3. It appears that *vide* letter dated 12.04.2021, the General Manager (Tech.) & Project Director, Odisha returned the petitioner’s proposal and requested re-submission strictly in terms of Clause 25(b)(i) to (viii) of the Contract. The petitioner complying with the said request, *vide* communication dated 13.07.2021, resubmitted its FCMs and sought termination of the Contract. Consequently, the Project Director, Keonjhar, Odisha, wrote to the Chief General Manager & Regional Officer, Bhubhaneswar, Odisha forwarding the request of the petitioner.

4. The petitioner contends that while the application pertaining to FCMs were pending with the NHAI, certain coercive steps were initiated against the petitioner, which was challenged in before this Court in W.P. (C) 9000/2021. The said petition was first listed before this Court on 25.08.2021 when the matter was adjourned to 26.08.2021 at the request of respondent no. 1 therein. On the said date, the Court disposed of the petition on the basis of stand taken by the respondent that it would withhold coercive action against the petitioner till a decision is taken on the petitioner’s representation pertaining to FCMs.

5. Thereafter, it is stated that *vide* order dated 25.08.2021 petitioner’s



application *qua* the FMCs were rejected, and, *inter alia*, the Performance Security furnished by the petitioner was sought to be forfeited. Assailing the said action, another petition bearing W.P. (C) 9796/2021, was preferred by the petitioner. The matter was first listed on 07.09.2021, and was directed to be re-listed on 10.09.2021. On the request of the respondent no. 1 therein, the matter was listed on 23.09.2021. Upon a similar request being made on 23.09.2021, the matter was relisted for 23.11.2021. The Court on 23.11.2021 directed the respondents to file their reply.

6. The writ petition was finally disposed of *vide* order dated 03.02.2023, wherein the Court unequivocally noted that the petitioner herein attempted to change the initial date of the FMCs, which is impermissible in law. It was also held, in para. 11 of the said order that the *force majeure* claim sought to be raised would not be liable to be considered in the writ petition. The material portion of the said order reads as under:

“10. Thus, it is these claims qua the period 1st April 2021 to 18th July 2021, which have been considered and processed by the Respondents. The Petitioner now seeks to increase the claim period by changing the initial date of the claim from 1st April, 2021 to 1st February, 2021. This, in the considered opinion of the Court, cannot be permitted. The claim filed by the Petitioner itself is for the period beginning from 1st April, 2021 and the Respondents have accepted the claim from 5th May, 2021.

11. In these circumstances, since the Petitioner is now seeking to extend the claim period, the force majeure claim which is now sought to be raised for the period 1st February, 2021 to 4th May, 2021 would not be liable to be considered in a writ petition. 12. If the Petitioner has any other claims under the contract, it is free to avail of the remedies in accordance with law. 13. With these observations, the present petition, along with all pending applications, is disposed of.”

7. After this Court passed the aforementioned order, it is contended that the



respondent released certain amounts pertaining to the petitioner's claim. With the grievance of the petitioner not being mitigated, the present petition came to be filed.

8. At this stage itself, it may be noted that this Court, in entertaining the aforesaid two writ petitions, has not dealt with the issue of territoriality, nor the question of *forum conveniens*. In the peculiar circumstances of the case, depending upon the stand taken by the respondents, and the case put forth by the petitioner, orders were passed by the Court. The same should not prevent this Court from delving into the aspect of territoriality and from invoking doctrine of *forum conveniens*

9. This Court in ***Sri Sai Enterprises v. National Highway Authority of India through its Chairman***,¹ dealt with a case where the petitioner, *inter alia*, sought the release of the petitioner's *force majeure* claim from the respondent-NHAI, under the terms of a contract pertaining to the work of collection and remittance of toll at Bhoothakudi Toll Plaza, Tamil Nadu. Relying on the observations of this Court in ***Indure Private Limited v. Government of NCT of Delhi***,² the Court refused to entertain the petition and granted liberty to the petitioner to approach the jurisdictional High Court.

10. A bare perusal of the factual narration given in paras. 1-3 above would reveal that the material, integral and essential part of the cause of action has arisen outside the jurisdiction of this Court. In the present case, the sole ground to approach this Court appears to be that the respondent-

¹ 2026:DHC:2362.



NHAI is based in Delhi, and naturally as a result of it, the Contract was also signed in Delhi. The petitioner has pleaded as such in para. 4 of the writ petition which reads as under:

“4. That this Hon’ble Court has the jurisdiction to entertain the present writ Petition as the Petitioner and Respondents are based in Delhi and the contract was also signed at New Delhi. Thus, the cause of action arises in Delhi, which is within the jurisdiction of this Hon’ble Court.”

11. This Court in ***The Indure Pvt. Ltd. v. Government of NCT of Delhi***,³ took note of the decisions in ***Shristi Udaipur Hotels v. Housing and Urban Development Corp.***,⁴ ***Riddhima Singh v. Central Board of Secondary Education***,⁵ ***Smt. Manjira Devi Ayurveda Medical College and Hospital v. Uttarakhand University of Ayurveda and Ors.***,⁶ ***Michael Builders and Developers Pvt. Ltd. v. National Medical Commission and Ors.***,⁷ which declare that the situs of the head office/registered office of the respondent, does not determine whether the Court has the requisite territorial jurisdiction to entertain a writ petition.

12. The Court in ***The Indure Pvt. Ltd.*** importantly noted, at para. 36:

“36. A petitioner who approaches this Court to assail a decision of an authority situated in Delhi, when the underlying cause for the said decision lies elsewhere, effectively attempts to make this High Court a mini-pan-India Superior Court exercising jurisdiction over all events which take place throughout this Country. There is no gainsaying with the proposition that every High Court is competent to adjudicate upon a lis which arises from events or actions taking place within its territory. Merely because the

² 2023:DHC:1605

³ 2026:DHC:1605.

⁴ 2014 SCC OnLine Del 2892.

⁵ 2023 SCC OnLine Del 7168.

⁶ 2024:DHC:6903-DB

⁷ 2024:DHC:7146.



ultimate order, which is based on events taking place outside Delhi and takes cognizance of actions outside of Delhi, is passed within the jurisdiction of this Court, a writ petition ought not be entertained by this Court.”

13. On the issue of a claimant approaching this Court on the sole-ground of the respondent-authority, an arm of the union government, being situated within the jurisdiction of this Court, it was observed at para. 37-38:

“37. Naturally, being the capital of the Country, various authorities and bodies having pan-India jurisdiction would be located within the jurisdiction of this Court. Merely because the decision making authority happens to be in Delhi, ought not to be the sole reason to entertain a lis in this Court. The decision, no doubt, may be passed in the national capital, but it is usually against persons situated outside Delhi; and even more importantly, for actions which took place beyond the borders of this Court. The act of giving a hearing in Delhi, or the passing of an order in Delhi, is merely a result of a body/authority being situated in the national capital, it has nothing to do with the lis, the offending action, the legal injury or the foundational facts on the basis of which action is being taken.

38. The case-law cited above, makes repeated reference to “dominant facts”, and facts which are “material, essential and integral” to the lis in question. In most cases, the fact that the order is passed, or the head office is located, or that opportunity of hearing was afforded, within the jurisdiction of this Court is completely immaterial, non-essential, and non-integral to the dispute in question. Any of the aforementioned three aspects could very well have taken place in another part of the Country, it is for the sole reason that Delhi is the national capital, that, in most cases these factors get connected to the jurisdiction of this Court. From another lens, it may be seen that regardless of what the underlying facts or legal injury/infringement may be, the order impugned would, in an overwhelming number of cases be passed from Delhi. If this be the case, can this constant factum, which shall remain present in each case, be considered a “dominant fact” or a “material, essential and integral” fact? The answer must be in the negative.”

14. Ultimately, the Court concluded that the substance of a matter must be adjudged, and not the unchanging constant which is present in every petition against a state-authority, to arrive at a conclusion on whether to entertain a petition in the context of territorial jurisdiction and *forum non conveniens*.



At para. 42 this Court observed:

“42. It is the substance of the matter which the Court must consider in determining the connection with Delhi. An order being passed by an authority in Delhi is an unchanging constant. This static/uniform facet, which is unmoved by the nature of the lis, ought not to determine where territorial jurisdiction would lie.”

15. In the facts of the instant case, there may be a part of cause of action which has arisen in Delhi, however, the same should not be the sole reason to entertain the instant petition.

16. The Supreme Court in the case of ***Kusum Ingots & Alloys Ltd. v. Union of India and Anr.***,⁸ has held that even if a small part of cause of action arises within the territorial jurisdiction of the High Court, the same by itself may not be considered to be a determinative factor compelling the High Court to decide the matter on merit. In appropriate cases, the Court may refuse to exercise its discretionary jurisdiction by invoking the doctrine of *forum conveniens*. The material portion of the aforementioned decision reads as under:

“Forum conveniens

30. We must, however, remind ourselves that even if a small part of cause of action arises within the territorial jurisdiction of the High Court, the same by itself may not be considered to be a determinative factor compelling the High Court to decide the matter on merit. In appropriate cases, the Court may refuse to exercise its discretionary jurisdiction by invoking the doctrine of forum conveniens. [See Bhagat Singh Bugga v. Dewan Jagbir Sawhney [AIR 1941 Cal 670 : ILR (1941) 1 Cal 490] , Madanlal Jalan v. Madanlal [(1945) 49 CWN 357 : AIR 1949 Cal 495] , Bharat Coking Coal Ltd. v. Jharia Talkies & Cold Storage (P) Ltd. [1997 CWN 122] , S.S. Jain & Co. v. Union of India [(1994) 1 CHN 445] and New Horizons Ltd. v. Union of

⁸ (2004) 6 SCC 254.



India [AIR 1994 Del 126] .]”

17. In view of the above, petition stands dismissed. Liberty is, however, granted in favour of the petitioner to approach the jurisdictional High Court to agitate the instant *lis*, if so advised.

18. All rights and contentions of the parties are left open.

(PURUSHAINDRA KUMAR KAURAV)
JUDGE

MARCH 24, 2026
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