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

+ **CS(COMM) 2/2025**

NKG INFRASTRUCTURE LTDPlaintiff

Through: Mr. Prakhar Tiwari, Mr. Aalok
Tiwari and Ms. Shaily Shukla Tiwari,
Advocates

versus

BRILLTECH ENGINEERS PVT. LTD. AND ANR.Defendants

Through: Mr. Ankur Singhal, Advocate for D-1

CORAM:
HON'BLE MR. JUSTICE ANISH DAYAL

ORDER

% **07.02.2025**

I.A. 78/2025 (under Section 151 CPC)

1. The application is allowed, subject to an undertaking by counsel for the plaintiff that they shall file the requisite Court Fee within the next two weeks.

2. Application stands disposed of.

I.A. 79/2025 (under Order XI Rule 2 CPC); I.A. 80/2025 (under Order XXXIX Rule 1 & 2 CPC); I.A. 81/2025 (under Order XXXIX Rule 10 CPC); & I.A. 82/2025 (under Order XXVI CPC)

1. On steps being taken by plaintiff, notice of these applications be issued to defendants through all permissible modes, returnable before this Court on 28th March 2025.

I.A. 83/2025 (under Section 12A of the Commercial Courts Act)

1. Considering that plaintiff has prayed for an urgent relief, access to the store room is restricted by the defendant no.1, and defendant no.1 itself has proceeded with a claim against plaintiff in a suit filed before the



(Commercial Courts) at Patiala House Courts, New Delhi. In view of this Court, pre-litigation mediation may not be successful.

2. It is further noted that on 1st July 2024, the District Judge (Commercial Courts) at Patiala House Courts, New Delhi, attempted conciliation between parties and noted that the parties did not seem interested in an amicable settlement.

3. Accordingly, in view of the decision of the Supreme Court ***Yamini Manohar v. T.K.D. Keerthi***, 2023 SCC OnLine SC 1382, and the facts as noted above, this application is disposed of.

I.A. 84/2025 (exemption from filing certified copies)

1. Exemption is granted, subject to all just exceptions.

2. Applicant shall file legible, clear, and original copies of the documents on which the applicant may seek to place reliance before the next date of hearing, whichever is earlier.

3. Accordingly, the present application is disposed of.

I.A. 86/2025 (under Section 80 (2) CPC seeking exemption from notice period)

1. This application has become infructuous in view of the order dated 7th January 2025.

2. Accordingly, this application stands dismissed.

I.A. 85/2025 (under Order XI Rule 4 CPC)

1. The present application has been filed on behalf of the plaintiff, seeking to place on record additional documents.

2. Plaintiff, if they wish to file additional documents at a later stage, the same shall be done strictly as per the provisions of the Commercial Courts Act, 2015 and the Delhi High Court (Original Side) Rules, 2018.

3. Accordingly, the present application is disposed of.



CS(COMM) 2/2025

1. This suit has been filed seeking recovery of Rs. 11,24,11,535/- along with attendant relief against the defendant, arising out of breaches under the *Notice of Award bearing No.A/NKG/Vijayawada/ MEP/2021/111* (NOA) dated 31st July 2021. Same was issued by the plaintiff to defendant no.1 for undertaking the work of '*S/I/T/C of High and Low Side works of electrical works on EPC mode*' for an amount of Rs.33.50 Crores on a back-to-back basis.
2. The construction works had been granted to plaintiff, under the Project titled '*Construction of New Integrated Terminal Building And Associated Works Including Maintenance, Operation And AICMC at Vijayawada Airport, Vijayawada (Package-I)*', awarded by Airports Authority of India ('AAI') (defendant no. 2, as per the original memo of parties, subsequently deleted by order dated 7th January 2025).
3. The main project awarded vide agreement No. *AAI/CHQ/ED(ENGG)-SR/VIJAYAWADA/NITB/2020/155* on 7th September 2020. Plaintiff claims that defendant abandoned plaintiff's work site midway on 21st February 2024, leaving the works incomplete. It is stated that defendant no.1 locked up all the material dumped by it in the store room provided to it at the Vijayawada Airport and took away the keys to the door with itself and plaintiff does not even have access to the same. Defendant claims Rs.3.61 Crores for the supply of the said material and has filed a suit before Patiala House Courts being *CS(Comm) No. 263/2024* wherein plaintiff has been arrayed as a defendant.
4. Summons have been issued to plaintiff in the said suit filed by defendant and proceedings are afoot. Plaintiff has also filed a counter-claim in the said suit.
5. It is contended that the instant suit filed by plaintiff was necessitated



on account of damages and loss incurred by it. Additionally, plaintiff is under tremendous constraint since the last Extension of Time (*EOT*) granted by the AAI expired on 31st December 2024. Plaintiff is unable to access the material, which defendant has locked up in the store room provided at Vijayawada Airport.

6. On the last date of hearing, i.e. 7th January 2025, plaintiff was undergoing insolvency proceedings, and a *Resolution Professional* (RP) had been appointed by order dated 27th January 2025. However, the same had been stayed by the National Company Law Appellate Tribunal (“*NCLAT*”) by order dated 3rd December 2024, and the appeal is listed for 20th March 2025 before the NCLAT as *Company Appeal (AT) (Insolvency) No. 2247/2024*. In that matter, summons have been served. In this view this, counsel for plaintiff claims that they are entitled to institute the suit.

7. Accordingly, the plaint be registered as a suit. Summons be issued to the defendants by all permissible modes on filing of process fee. Affidavit of service be filed within two weeks.

8. Summons shall state that the written statement(s) shall be filed by the Defendants within 30 days from the date of receipt of summons. Along with the written statement(s), the Defendants shall also file affidavit(s) of admission/denial of the documents of the Plaintiff, without which the written statement(s) shall not be taken on record.

9. Liberty is given to the Plaintiff to file replication(s) within thirty days of the receipt of the written statement(s). Along with the replication(s), if any, filed by the Plaintiff, affidavit(s) of admission/denial of documents of the Defendants, be filed by the Plaintiff, without which the replication(s) shall not be taken on record. If any of the parties wish to seek inspection of any documents, the same shall be sought and given within the timelines.

10. List before the Joint Registrar (Judicial) for marking of exhibits on



21st March 2025. It is made clear that any party, unjustifiably denying documents, would be liable to be burdened with costs.

11. List before Court for framing of issues thereafter on 28th May 2025.

12. Order be uploaded on the website of this Court.

ANISH DAYAL, J

FEBRUARY 7, 2025/sm/tk