

## IN THE SUPREME COURT OF INDIA

## CIVIL APPELLATE JURISDICTION

CIVIL APPEAL No. 867 of 2011  
(arising out of S.L.P. (Civil) No. 1939/2011)

National Highways Authority of India &amp; Anr.

Appellant(s)

VERSUS

M/s. Madhucon Projects Ltd. &amp; Ors.

Respondent(s)

## O R D E R

Leave granted.

Since the concerned respondent, being the respondent No.1 is represented on caveat, service of notice on it is dispensed with. As far as the other respondents are concerned, service of notice on them is also dispensed with in view of the order which we propose to pass at this stage itself.

This appeal is directed against an interim order passed by the Division Bench of the Delhi High Court on 20 th December, 2010, in Writ Petition No. 8418/2010 and CM No. 21602/2010 relating to a tender floated by the National Highways Authority of India. As we have been able to gather from the submissions made on behalf of the respective parties, the matter is now pending at the stage where the financial bids of all the other tenderers have been opened except the tender submitted by the respondent No. 1 which

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has not been opened because of certain objections relating to the tendered documents filed. The matter is pending before the High Court, as indicated earlier, and is still to be considered by the said Court. We are informed that the next date of hearing before the High Court is 27 th January, 2011.

The only grievance of the appellants herein is with

regard to the directions given to them to open the financial bid of the respondent No. 1 which is lying in a sealed cover and to process the same along with the other financial bids.

Having heard learned counsel for the parties, we are of the view that the directions given to the appellants to open the financial bid of the respondent No. 1 by way of an interim order, when the validity of the Power of Attorney used to file the same was pending before the High Court, was erroneous and ought not to have been given. The opening of the financial bid of the respondent No. 1 will, to a large extent, depend on the validity of the Power of Attorney which had been used to submit the tendered documents. Accordingly, we modify the order of the High Court impugned in the appeal and direct that the financial bid of the respondent No. 1 shall not be opened, but be kept in a sealed cover which, however, is to be produced before the High Court at the time of hearing of the Writ Petition filed by the said respondent and the opening of the said financial bid will depend on the outcome of the pending Writ Application and the decision of the High Court. We also make it clear that the interim order passed by the High Court to the extent that the contract would not be awarded to any party, will continue.

The appeal is, accordingly, allowed to that extent. There will be no order as to costs.

.....J  
(ALTAMAS KABIR)

.....J  
(CYRIAC JOSEPH)

New Delhi;  
January 20, 2011.

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).1939/2011

(From the judgement and order dated 20/12/2010 in WPC No.  
8418/2010 of The HIGH COURT OF DELHI AT N. DELHI)

NATIONAL HIGHWAYS AUTH.OF INDIA & ANR

Petitioner(s)

VERSUS

M/S MADHUCON PROJECTS LTD.& ORS.

Respondent(s)

(With appln(s) for exemption from filing c/c of the impugned  
Judgment, permission to place addl. documents on record and prayer  
for interim relief and office report )

Date: 20/01/2011 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ALTAMAS KABIR  
HON'BLE MR. JUSTICE CYRIAC JOSEPH

For Petitioner(s) Mr. G.E. Vahanvati, AG  
Mr. Gourab Benerji, ASG  
Mr Praveen Jain, Adv.  
Mr. Sumit Gupta, Adv.  
Mr. T.S. Sidhu, Adv.  
Mr. Mukesh Kumar, Adv.  
Ms. Padma, Adv. for  
M/S. M.V. Kini & Associates

For Respondent No.1/ Mr. C.A. Sundram, Sr.Adv.  
Caveator Mr. Ranjit Kumar, Sr.Adv.  
Mr. Amitabh Chaturvedi, Adv.  
Mr. Jeevesh, Adv.  
Mr. Nikhil Srivastava, Adv.  
Mr. Parag Maini, Adv.  
Dr. (Mrs.) Vipin Gupta, Adv.

UPON hearing counsel the Court made the following

O R D E R

Leave granted.

The appeal is allowed in terms of the signed order.

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(Anita Malhotra)  
Sr.PA

(Juginder Kaur)  
Court Master

(Signed order is placed on the file.)