

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).16430/2013

(From the judgement and order dated 12/04/2013 in AST No.321/2012 dated 16/04/2013 in AST No.321/2012 of The HIGH COURT OF CALCUTTA)

M/S KONARK INFRASTRUCTURE LTD.

Petitioner(s)

VERSUS

M/S MEP INFRASTRUCTURE DEV.PVT.LTD.& ORS

Respondent(s)

(With appln(s) for withdrawal of slp and prayer for interim relief and office report )

WITH SLP(C) NO. 18577 of 2013

(With appln. for permission to file SLP without c/copy as well as plain copy of impugnd order and exem from filing c/copy as well as plain copy as well as plain copy of the impugned order and with prayer for interim relief and office report)

Date: 16/07/2013 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE T.S. THAKUR  
HON'BLE MR. JUSTICE JAGDISH SINGH KHEHAR

For Petitioner(s) Mr. C.A.Sundram, Sr. Adv.  
Mr. Anip Sachthey, Adv.  
Mr. Mohit Paul, Adv.  
Ms. Shagun Matta, adv.  
Mr. Saakaar Sardana, Adv.  
Mr. D.K.Rustagi, Adv.

Mr. Abhijit Sengupta, Adv.  
Mr. Nand, Adv.  
Mr. D.Banerjee, Adv.  
Mr. Faisal M., Adv.

For Respondent(s) Mr. Gopal Subramaanium, Sr. Adv.  
Dr. A.M.Singhvi, Sr. Adv.  
Mr. MOhd. Waquas, Adv.  
Mr. Tapeshe Kumar Singh, Adv.

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

Mr. Gopal Subramanium, learned senior counsel for the respondent-M/s. MEP Infrastructure Developers Pvt. Ltd.

has today on instructions renewed the offer of a higher bid referred to in our order dated 3.5.2013 and expressed the willingness of the said company to deposit 1/5th of bid amount of Rs. 261 crores and furnish a bank guarantee for the balance 4/5th amount.

Mr. C.A.Sundram, learned senior counsel for the petitioner-company, however, seeks a short adjournment to take instructions whether the petitioner-company is also similarly willing to renew the offer of a higher bid made by it.

Learned counsel for the two companies further submit that in case both the companies are allowed to renew their offers should any one of them resile from the same on any subsequent date of

hearing, the 1/5th amount deposited by the defaulting party could be forfeited. That submission is recorded.

They further submit that since the banks usually do not issue any bank guarantee without an underlying contract, there may be some difficulty in getting bank guarantees for 4/5th amount referred to in our earlier order dated 03.05.2013. They, therefore, prayed for a direction that instead of furnishing bank guarantees for 4/5th of the amount they could be permitted to file undertakings from the two companies stating that in case the contract is eventually allotted in favour of any one of them, the successful bidder would furnish a bank guarantee for the

balance of the bid amount within four weeks from the date of such allotment.

Before we pass any further orders on the subject let Mr. Sundram seek instructions in the matter and file a rejoinder affidavit to the counter affidavit filed by the respondent.

Post on 24.07.2013 for hearing.

Needful may be done in the meantime.

| (Shashi Sareen)  
| Court Master

| | (Veena Khera)  
| | Court Master

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(Copy of order be given today itself)