$~9

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

\+ O.M.P. (I) (COMM.)-1/2026

ROADWAY SOLUTIONS INDIA INFRA LIMITED

.....Petitioner

Through: Mr. Gopal Jain, Sr. Adv. with Mr.Samir Malik, Mr. Varun Kalra, Mr. Pranav Khanna and Mr. Krishan Kumar, Advs.

versus

NATIONAL HIGHWAY AUTHORITY OF INDIA

.....Respondent

Through: Mr. Abhay Gupta and Ms. Simran Goel, Advs.

CORAM:
HON'BLE MS. JUSTICE MADHU JAIN

<u>O R D E R</u>

% **02.01.2026**

<u>I.A. 1-2/2026 (Exemption)</u>

1. Allowed, subject to all just exceptions.

<u>I.A. 3/2026</u>

2. This application seeks permission to file lengthy synopsis and list of dates and events.

3. Having considered the contents of the application, the same is allowed.

<u>O.M.P. (I) (COMM.)-1/2026</u>

4. This petition has been filed by the petitioner seeking the following reliefs:

> *"(a) Pass an order of appropriate interim measure, staying forthwith the operation and effect of the Notice of Intent to Terminate dated 23.12.2025, issued by the Respondent, with respect to the Contract dated 19.01.2024;*
> *(b) Pass an order of appropriate interim measure*

staying forthwith the invocation of the Insurance Surety Bond dated 09.09.2024 bearing No. OG-25-1908-6621-00000001 issued for an amount of Rs. 36.84Crores submitted by the Petitioner to the Respondent and Surety Bond dated 29.10.2024 bearing OG-25-190 8-6621-00000002 issued for an amount of Rs, 67.54 Crores submitted by the Petitioner to the Respondent;
(c) Pass the above orders ex-parte; and/or Pass any other order/direction which this Hon'ble Court may deem just, fair and equitable in the aforesaid facts and circumstances."

5. The learned senior counsel for the petitioner submits that in terms of the contract dated 19.01.2024, the respondent was obligated to handover 90% of the Right of Way, which shall be in a contiguous stretch of not less than 5 kms. The contract also provided that upon such handover, the Appointed date shall be declared. Pursuant to the execution of the contract and owing to non-providing of the 90% contiguous land by the NHAI, disputes arose between the parties and the parties entered into a Settlement Agreement ("SA-I") dated 23.08.2024. Since the land so provided contained various hindrances, the work progress was not very efficient. As the petitioner was constrained to work in patches and fragments of available land, a second Settlement Agreement ("SA-2") dated 04.04.2025 was executed.

6. He further submits that on 06.06.2025, the petitioner informed the respondent about the achievement of 17.82% financial progress, however, again disputes arose between the parties regarding the interpretation of the words "financial progress" as it was not defined in the contract.

7. This led to issuance of the Notice of Intent to Terminate ("NITT") dated 16.06.2025. The petitioner assailed the first NITT before the Court by filing a petition under Section 9, however, the parties in order to

resolve their disputes again entered into another Settlement Agreement No. 3 (“SA-3”) dated 12.08.2025.

8. The learned counsel for the petitioner contends that this Agreement is very crucial as the following came to be agreed between the parties:

> “*a. Petitioner will achieve "Expenditure/progress" of 10% by 25.11.2025 with a grace period of 30 days, along with re-scheduling of rest of the milestones.*
> *b. NHAI will endeavour to provide the hindered land mentioned in Annexure 1 by 25.11.2025, failing which the said land shall not be considered for the purpose of issuing Completion Certificate*
> *c. NHAI will withdraw its 1st NITT dated 16.06.2026.”*

9. He further submits that for the first time, the NHAI admitted the availability of the land at 82.4% instead of earlier claims of 94.85%. He further submits that the parties also did a fresh joint verification of the available land on 8th-9th December, 2025 which showed a further hindered length of 425 metres, thus reducing the land availability to 81.2%. He further submits that the petitioner achieved the Milestone-1 under SA-3 and wrote a letter to the respondent that it had successfully achieved the Expenditure/Progress of 19.34%.

10. Subsequently, he further submits that due to non-availability of the contiguous length, the petitioner was constrained to issue a Notice of Intent to Terminate dated 18.12.2025 and in counterblast to the same, the respondent issued another Notice of Intent to Terminate dated 23.12.2025.

11. He further submits that the main apprehension of the petitioner is that the respondent will unlawfully encash the insurance surety bonds of the petitioner and terminate the agreement to hide its own defaults.

12. The learned counsel for the petitioner further submits that there is a report by the Authority Engineer, which specifies as under:

> *"In view of the above, the Contractor's proposed work programme, with a completion date of 13.02.2027, is reasonable and agreeable considering the time required to complete the balance works for the captioned project. The Authority, in the best interest of the project, may further engage with the Contractor as proposed by the Contractor vide letter No. 6741 dated 05.12.2025 pursuant to the discussions held in the meeting on 03.12.2025 at NHAI DMRA office and enter into another settlement agreement to arrive at mutual agreed terms other related aspects of the contract provisions."*

13. He further submits that now the termination shall be governed by SA-3, however, NITT does not mention any expenditure incurred by the petitioner.

14. On the other hand, the learned counsel for the respondent submits that the petition is premature and based only on apprehensions. He further submits that previously also, the Notice of Intent to Terminate was issued which was subsequently withdrawn based on the assurances given by the petitioner. However, since the work has not been completed and since the Milestone-1 and the other milestones have not been achieved as per SA-3, the respondent is constrained to issue a fresh Notice of Intent to Terminate (NITT).

15. He places reliance on judgments of the Supreme Court in ***Reliance Salt Ltd. v. Cosmos Enterprises and another*** (2006) 13 SCC 599, ***BSES Ltd. v. Fenner India Ltd. and another*** (2006) 2 SCC 728, ***Indian Oil Corporation Ltd. v. Amritsar Gas Service and others*** (1991) 1 SCC 533 and of this Court in ***GMR Krishnagarh-Udaipur-Ahmedabad Expressways Ltd. v. National Highways Authority of India*** 2016 SCC OnLine Del 1218, ***Rajasthan Breweries Limited v. The Stroh Brewery Company*** 2000 (55) DRJ (DB), ***Country Development and Management***

Services Pvt. Ltd. v. Brookside Resorts Pvt. Ltd. 2006 SCC OnLine Del 200.

16. Issue notice.

17. Notice is accepted by the learned counsel appearing for the respondent.

18. The principal issue which arises for consideration before this Court pertains to the interpretation of the expressions "Financial Progress" in SA-1 & SA-2 and "Expenditure/Progress" as mentioned in SA- 3.

19. The learned counsel for the respondent submits that the present dispute concerns a project of public utility service and, therefore, this Court ought to exercise restraint and refrain from granting any interim relief.

20. *Per contra,* the learned counsel for the petitioner submits that the petitioner has made out a strong *prima facie* case and that the balance of convenience lies in its favour. It is further submitted that the petitioner would suffer irreparable loss and injury in the event the insurance surety bonds are encashed by the respondent prior to adjudication of the petition on merits.

21. The learned senior counsel for the petitioner further submits that encashment of the insurance surety bonds, aggregating to approximately Rs. 100 crores**,** before final adjudication would result in grave and irreversible loss and injury to the petitioner. In these circumstances, the respondent is restrained from acting upon the Notice of Intent to Terminate dated 23.12.2025 till the next date of hearing.

22. Let a reply to the petition be filed within a period of one week from today. Rejoinder thereto, if any, be filed within a period of three weeks thereafter.

23. List before the Roster Bench on 9th February, 2026.

MADHU JAIN, J

(VACATION JUDGE)

JANUARY 2, 2026*/b/k*