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

+ OMP (ENF.) (COMM.) 145/2021

DELHI AIRPORT METRO EXPRESS

PRIVATE LIMITED

..... Decree Holder

Through: Mr. Kapil Sibal, and Mr.
Prateek Seksari, Sr. Advs. with
Mr. Mahesh Aggarwal, Mr.
Rishi Aggarwal, Mr. Shri
Venkatesh, Ms. Megha Mehta,
Ms. Niyati Kohli, Mr. Pranjit
Bhattacharya, Mr. Suhael
Buttan, Mr. Vineet Kumar, Ms.
Manavi Aggarwal and Ms.
Manisha Singh, Advs.

versus

DELHI METRO RAIL CORPORATION

LTD.

..... Judgement Debtor

Through: Mr. R. Venkataramani,
Attorney General of India, Mr.
A.K. Sinha, Sr. Adv. with Mr.
Tarun Johri, Mr. Ankur Gupta
and Mr. Vishwajeet Tyagi,
Advs. for DMRC
Mr. Parag Tripathi, Sr. Adv.
with Mr. Santosh Kumar
Tripathi, Standing Counsel
GNCTD, Mr. Udit Malik, ASC,
GNCTD and Mr. Vishal
Chanda, Adv.
Mr. Ajit Kr. Sinha, Sr. Adv.
with Mr. Ayush Mishra, Ms.
Parul Dhurey, Advs.
Mr. Chetan Sharma, ASG, Mr.
Apoorv Kurup, CGSC, Ms.
Nidhi Mittal, Mr. Amit Gupta,
Mr. R. V. Prabhat, Adv. Mr.
Saurabh Tripathi and Mr. Vinay
Yadav, Advs. for UOI

CORAM:

HON'BLE MR. JUSTICE YASHWANT VARMA

ORDER

29.03.2023

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REVIEW PET. 79/2023

1. The Court is apprised that both the GNCTD as well as the Union Ministry have questioned the correctness of the judgment passed in **Delhi Airport Metro Express Private Limited vs Delhi Metro Rail Corporation** [2023 SCC OnLine Del 1619] and have approached the Supreme Court by way of petitions under Article 136 of the Constitution. Those petitions are slated to be posted for 10 April 2023.

2. In the meanwhile, the present review petition came to be preferred by DMRC questioning a part of the ultimate directions framed and to the extent noted below. While passing that judgment the Court had framed the following directions: -

- “A. The Union Ministry as well as the GNCTD shall forthwith attend to the requests of the DMRC for extension of sovereign guarantees/subordinate debt enabling it to liquidate its liabilities under the Award. The aforesaid decision be taken within a period of two weeks from today. If permission be accorded to the DMRC in respect of either of the two modes as suggested by it, it shall proceed to deposit the entire amount payable under the Award along with up-to-date interest in terms thereof within a period of one month therefrom;
- B. If the Union Ministry or the GNCTD decline the request for providing sovereign guarantees or subordinate debt, the Union Ministry shall forthwith and at the end of two weeks, revert and repatriate all moneys received by it from DMRC post 10 March 2022 pursuant to its directives so as to ensure that the credit balance in the Total DMRC Funds, Total Project Funds and Total Other Funds reflects the balance as it existed on 10 March 2022;
- C. Upon receipt of the aforesaid moneys, DMRC shall forthwith transfer to the escrow account, an amount equivalent to the total amount payable in terms of the Award along with interest;
- D. In case of a failure on the part of parties to proceed in terms of the above directions, the entire amount standing to the credit of Total DMRC Funds, Total Project Funds and Total Other Funds as of today shall stand attached forthwith without reference to Court;

- E. In case DMRC fails to clear all outstanding amounts payable in terms of the Award despite the directions set forth above, the Court reserves the right to frame further appropriate directions against the Union Ministry and the GNCTD consequent to the corporate veil having been duly lifted as per the findings recorded hereinabove.”

3. The learned Attorney General appearing for the review petitioner draws the attention of the Court to the order of 10 March 2022 and submits that even in the said decision rendered by the Court adequate protection had been extended insofar as salaries and other Operation & Maintenance [O&M] expenses which are to be borne by DMRC is concerned. It was submitted that the Court while framing direction ‘D’ has inadvertently failed to make an identical provision.

4. Having noticed the directions which had been framed by the Court on 10 March 2022, the Court finds that in terms of that order DMRC had been accorded protection insofar as salaries, medical benefits, post retiral benefits, security deposit on smart cards and other liabilities towards O&M expenses are concerned. It is the aforesaid order which has attained finality *inter partes*. This Court is of the considered view that the said stipulation should also be read in direction ‘D’ as framed. The said direction shall consequently stand amended and liable to be read accordingly.

5. Subject to the aforesaid observation, this review petition shall stand disposed of.

YASHWANT VARMA, J.

MARCH 29, 2023

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