2026:DHC:9321

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

Reserved on: 28 September 2026
Pronounced on:13 October 2026

\# **CNR No. DLHC010053612018**

\+ O.M.P. (COMM) 42/2019, I.A. 17768/2026 & I.A. 23582/2026

SPICEJET LIMITED .....Petitioner

Through: Mr. Amit Sibal, Sr. Adv. with Mr. K. R. Sasiprabhu, Mr. Yasharth Mishra and Mr. Darpan Sachdeva, Advs.

versus

KAL AIRWAYS PVT LTD & ORS. .....Respondents

Through: Mr. Jayant Mehta, Sr. Adv. with Ms. Mansvini Jain, Ms. Nandini Gore, Mr. Akash Sharma and Mr. Vedant Choudhary, Advs.

CORAM:
HON'BLE MR. JUSTICE VINOD KUMAR

ORDER

% 13.10.2026

I.A. No 26867/2026 (extension of timeline for depositing the amount) in O.M.P. (COMM) 42/2019

1. The present application has been filed by the Petitioner, i.e., SpiceJet Limited in O.M.P.(COMM) 42/2019 under Section 151 of the Code of Civil Procedure, 1908, seeking extension of the timeline stipulated by this Court vide order dated 13.07.2026 for depositing a sum of Rs.144,51,69,887/- with the Registry of this Court till mid of December 2026 in the manner contemplated by the order dated 13.07.2026, i.e. Rs.50 crores within 45 days and the balance amount of Rs.94,51,69,887/- within 90 days. The Petitioner has, in the meantime, also sought permission to deposit with the Registry the original title documents of the property bearing Plot No.114, Udyog Vihar, Phase-I, Gurgaon, as security till the aforesaid amount is deposited.

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2. The relevant background to the present application is that the amount of Rs.144,51,69,887/- represents the balance of the interest liability remaining payable under the Arbitral Award, as per the calculation furnished by the Petitioner in the enforcement proceedings. Vide order dated 13.02.2023, the Hon'ble Supreme Court directed encashment of the bank guarantee to ensure payment of the principal sum due under the Award in its entirety. The Hon'ble Supreme Court further directed the Petitioner to pay Rs.75 crores towards interest, pending disposal of the petition under Section 34 of the Arbitration and Conciliation Act, 1996, stipulating that in the event of default, the Arbitral Award would become executable forthwith in its entirety. Thereafter, vide order dated 29.05.2023, this Court directed the Petitioner to deposit the entire outstanding amount towards interest in view of the failure to pay the aforesaid amount of Rs.75 crores. The Petitioner's applications seeking extension of time to comply with the directions of the Hon'ble Supreme Court were subsequently dismissed vide order dated 07.07.2023.

3. As per the petitioner, according to its calculation, the interest payable under the Award was Rs.294,51,69,887/- and that, after adjustment of Rs.100 crores already paid towards interest, a further sum of Rs.194,51,69,887/- remained payable. This Court took note of the said admission vide order dated 20.11.2023. Thereafter, vide order dated 05.02.2024, this Court directed the Petitioner to pay Rs.50 crores out of the aforesaid outstanding amount within six weeks. Upon compliance with the said direction, the balance amount of Rs.144,51,69,887/- remained payable.

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4. Vide order dated 19.01.2026, this Court directed the Petitioner to deposit the aforesaid balance amount of Rs.144,51,69,887/- with the Registry of this Court within six weeks. The challenge to the said order before the Hon'ble Supreme Court was dismissed vide order dated 27.02.2026, with costs of Rs.1 lakh.

5. Thereafter, the Petitioner approached this Court seeking permission to furnish its property bearing Plot No.114, Udyog Vihar, Phase-I, Gurugram, as security in lieu of the cash deposit. Vide order dated 18.03.2026, this Court declined the request to substitute the cash deposit with the said property, while granting the Petitioner a further period of four weeks to make an endeavour to sell the property and arrange the requisite amount. The review petition preferred against the said order were subsequently dismissed, and no further enlargement of time was granted.

6. The Petitioner thereafter approached the Hon'ble Supreme Court. Vide order dated 19.05.2026, the Hon'ble Supreme Court declined to interfere with the orders passed by this Court, while permitting the Petitioner to approach this Court in view of the subsequent developments relating to the Emergency Credit Line Guarantee Scheme 5.0 (ECLGS) and the pendency of the proceedings under Section 34 of the Arbitration and Conciliation Act, 1996.

7. Pursuant thereto, the Petitioner filed application seeking directions in the light of the aforesaid order of the Hon'ble Supreme Court. During the consideration of the said applications, the Petitioner placed on record an additional affidavit dated 10.07.2026, proposing to deposit the outstanding

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amount of Rs.144,51,69,887/- in two tranches on the basis of the anticipated disbursement of financial assistance under the ECLGS.

8. The proposal placed before this Court contemplated receipt of a second tranche of Rs.349 crores under the ECLGS, following which the Petitioner would deposit Rs.50 crores within 45 days. The Petitioner further anticipated receipt of a third tranche of Rs.500 crores and undertook to deposit the remaining amount of Rs.94,51,69,887/- within 90 days.

9. Vide order dated 13.07.2026, this Court accepted the undertaking of the Petitioner to deposit Rs.50 crores with the Registry within 45 days and the balance amount of Rs.94,51,69,887/- within 90 days. The applications were directed to be listed on 21.09.2026 to test the bona fides of the Petitioner. The first instalment of Rs.50 crores was required to be deposited by 27.08.2026. However, the said undertaking was not complied with. The Petitioner has attributed the non-compliance to the non-sanction and non-disbursement of the second tranche of Rs.349 crores under the ECLGS.

10. The present application has now been filed seeking extension of time to comply with the order dated 13.07.2026, along with permission to deposit the original title documents of the aforesaid property as interim security, principally on the ground that the second tranche of Rs.349 crores under the ECLGS, which according to the Petitioner formed the financial basis for the proposal made in the additional affidavit dated 10.07.2026, has not been sanctioned/disbursed. It is submitted that the Petitioner had applied for the said tranche on 26.06.2026 and that, unlike the first tranche of Rs.151 crores, the second tranche is still remained pending.

11. Learned Senior Counsel appearing for the Petitioner submits that the proposal recorded in the order dated 13.07.2026 was made under *bona fide* expecting that the ECLGS funds would be sanctioned and disbursed within the contemplated timeframe. It is submitted that the Petitioner had no reason to anticipate the delay in disbursement of the second tranche of Rs.349 crores and that the inability to comply with the timeline stipulated in the order dated 13.07.2026 is consequently not deliberate or wilful.

12. Learned Senior Counsel submits that the second tranche of Rs.349 crores was crucial to the financial and operational stabilisation of the Petitioner-company. It is submitted that the Petitioner has been continuously taking steps with the lending institution as well as the concerned authorities for sanction and disbursement of the amount, but the same has not been received till date. It is further submitted that the Petitioner continues to remain hopeful that the amount would be disbursed by the end of November or middle of December, 2026.

13. Learned Senior Counsel further submits that the circumstances affecting the Petitioner-company have aggravated on account of the West Asia crisis and the consequent impact upon its operations. It is submitted that the number of flights being operated by the Petitioner have substantially reduced and that a direction requiring immediate cash deposit of Rs.144,51,69,887/- would have serious consequences for its continued operations.

14. Learned Senior Counsel further submits that the Petitioner has already deposited substantial amounts pursuant to the arbitral award. A total amount of approximately Rs.729.08 crores has already been deposited and disbursed

to the Respondents, which includes the entire principal amount of Rs.529.08 crores and Rs.150 crores towards interest.

15. Learned Senior Counsel further submits that the Hon'ble Supreme Court, vide its order dated 19.05.2026, had specifically permitted the Petitioner to approach this Court in view of the subsequent development concerning the ECLGS and the pendency of the Section 34 petitions. It is submitted that the order dated 13.07.2026 was thereafter passed upon consideration of the proposal of the Petitioner, which proposal itself was dependent upon receipt of the ECLGS funds. The present application, according to the Petitioner, therefore arises from a subsequent circumstance, namely, the non-disbursement of the second tranche of Rs.349 crores.

16. Learned Senior Counsel for Petitioner also seeks permission to deposit the original title documents of Plot No.114, Udyog Vihar, Phase-I, Gurgaon with the Registry as an interim security till the ECLGS amount is received and the cash deposit is made.

17. It is submitted that the said property is presently unencumbered and has been valued by a Government approved valuer at approximately Rs.147.77 crores. Learned Senior Counsel submits that the Petitioner are willing to deposit the original title documents with the Registry and undertake that the property would not be dealt with without the leave of this Court.

18. Learned Senior Counsel for Petitioner further submits that the Petitioner are also willing to continue their efforts for sale of the property and, in the event of a suitable transaction being finalised before receipt of

the ECLGS funds, the same would be undertaken only with the permission of this Court and the sale proceeds would be utilised towards the amount directed to be deposited.

19. Learned Senior Counsel submits that the Respondents are already secured to a substantial extent by the amounts which have been paid pursuant to the arbitral award and that no prejudice would be caused to the Respondents if a limited extension is granted. Learned Senior Counsel submits that the grant of some further time would also enable the parties to explore an amicable settlement, particularly when mediation proceedings have been initiated.

20. Learned Senior Counsel also submits that the Respondents have meanwhile initiated enforcement proceedings and have filed applications seeking, attachment of the bank accounts and property of the Petitioner. It is submitted that the present application has consequently become necessary in order to seek appropriate directions from this Court before coercive steps are taken pursuant to the enforcement proceedings.

21. Learned Senior Counsel for the Respondents, on the other hand, opposes the present applications. He submits that the amount of Rs.144,51,69,887/- is an admitted outstanding amount and that the direction for its deposit has been the subject matter of repeated proceedings before this Court as well as before the Hon'ble Supreme Court.

22. Learned Senior Counsel for Respondent submits that the Petitioner have, on earlier occasions, relied upon their financial difficulties, the pendency of the Section 34 proceedings and the circumstances affecting the

aviation sector for seeking modification or enlargement of the time granted for making the deposit. It is submitted that these grounds have already been considered in the earlier proceedings and cannot furnish a basis for repeatedly seeking extension of the timeline.

23. Learned Senior Counsel further submits that the order dated 19.01.2026 directing deposit of the admitted outstanding amount was challenged before the Hon'ble Supreme Court and the challenge was dismissed with costs. It is submitted that the Petitioner thereafter sought permission to furnish the same property as security in lieu of the cash deposit, which prayer was rejected by this Court. The Review Petition challenging the said order were also dismissed.

24. Learned Senior Advocate for Respondent submits that the Petitioner have already been granted repeated indulgence and extensions of time and that the Respondents, having obtained an executable arbitral award and having remained unpaid in respect of the admitted outstanding amount, cannot be deprived indefinitely of the fruits of the award.

25. Learned Senior Counsel further submits that the subsequent non-disbursement of the ECLGS amount cannot, by itself, indefinitely extend the time granted by this Court for compliance with the order dated 13.07.2026. It is submitted that the proposal made by the Petitioner on 10.07.2026 and the undertaking recorded on 13.07.2026 were made by the Petitioner themselves and that the Respondents cannot be made to bear the consequences of the Petitioner’s inability to arrange the funds contemplated under the said proposal.

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26. Learned Senior Counsel further submits that the prayer regarding deposit of the title documents of Plot No.114 is, in substance, another attempt to secure the admitted outstanding amount by means other than the cash deposit, which prayer has already been considered and rejected by this Court in the earlier proceedings. It is submitted that the Petitioner cannot seek to revive the same prayer merely by describing the property as "interim security" instead of offering it "in lieu of" the cash deposit.

27. Learned Senior Counsel accordingly submits that the present applications do not disclose any sufficient ground for further enlargement of time and that the prayer for permitting the Petitioner to deposit the title documents of the property as security is also liable to be considered in the backdrop of the orders already passed by this Court.

28. I have considered the rival submissions. Perusal of the record shows that the amount of Rs.144,51,69,887/- is yet to be deposited by the Petitioner. As recorded in order dated 13.07.2026, the Petitioner has agreed to make payment of INR 50 crore within 45 days and INR 94.51 crore within 90 days.

29. I agree that the Petitioner is under severe financial constraints but at the same time, interest of the Respondent company is also required to be protected. The Petitioner had already taken several extensions of time in depositing the amount.

30. This Court vide order dated 13.07.2026 listed the application on 21.09.2026 to see as to whether the undertaking of the Petitioner is *bonafide* or not. As already stated, on 13.07.2026 the Petitioner had undertaken to

deposit Rs.50 crores with Registry and thereafter balance amount of Rs.94.51 crores within 90 days. Admittedly Rs.50 crores have not been deposited. In this situation, repeated extensions cannot be granted. This Court could have taken a lenient view in respect of time limit of second instalment, had the Petitioner complied with their own undertaking of depositing Rs.50 crores with the Registrar General within 45 days. Even this first part of undertaking has not been complied with. So far as submitting original documents of property in Gurugram is concerned, such request has already been rejected by this Court vide order dated 18.03.2026.

31. Though at that time, the property was under mortgage and now it is unencumbered, this Court is more concerned about Petitioner's own undertaking to deposit Rs.50 crores within 45 days. Had Petitioner deposited Rs.50 crores, this Court could have entertained the plea of depositing the documents pertaining the property at Plot No. 114, Udyog Vihar, Phase 1, Gurgaon as security with the Registry of this Court for permitting the amount of INR 94,51,69,887 to be deposited by December 2026. However, as the Petitioner has not deposited Rs.50 crores as per his undertaking, I am not inclined to accept the documents of property as a security.

32. Application is accordingly dismissed.

VINOD KUMAR, J

SEPTEMBER 28, 2026/*dd/harshit*

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