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IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of Reserve: May 06, 2009
Date of Order: May 15, 2009

+ OMP 696/2008

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15.05.2009

Mr. Ashwani Khurana

...Petitioner

Through : Mr. Krishnendu Gupta and Mr. Rohit Puri, Advocates

Versus

Mr. Ravi Goel & Ors.

...Respondents

Through: Mr. Rakesh Khanna, Sr. Adv. with Mr. Devinder N. Grover, Ms. Shailja, Mr. Sanjeev Sindhiani with Ms. Lata Kalraa, Advocates

JUSTICE SHIV NARAYAN DHINGRA

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporter or not?
3. Whether judgment should be reported in Digest?

JUDGMENT

1. By this application under Section 9 of the Arbitration & Conciliation Act, 1996 the applicant/petitioner has prayed that this Court should issue an order of injunction restraining the respondents from selling, dispossessing, transferring, creating third party rights directly or indirectly in the properties as mentioned in Annexure -13 till disposal of the arbitration proceedings.

2. It is the contention of the petitioner that the arbitration proceedings between the parties were going on before the sole arbitrator Justice V.S. Aggarwal (retired) and the claim of the petitioner against the respondents was worth several crores of rupees. The respondents had also filed counter claim

against the petitioner. While the petitioner has provided security as directed by the court to protect the interests of the respondent, the respondent has not provided security to protect the interest of the applicant.

3. It is not in dispute that a similar application made by respondent against the petitioner was dismissed by this court vide order dated 4th March 2008. The respondent preferred an appeal against that order. Before the Division Bench, parties arrived at a compromise in respect of the securities and the Division Bench observed as under:-

“We have heard the submissions of appellants and respondent on the merits of the appeal and scope of the power under Section 9 of the Arbitration and Conciliation Act, 1996. During the course of these proceedings, both the parties have arrived at a settlement regarding security that can be provided by the respondent during the arbitral proceedings. Let the statements of the parties be recorded.”

4. In pursuant of this order, statements of parties were recorded and the respondent (petitioner herein) had agreed to furnish securities of his properties worth Rs.35 crore. The parties had also agreed for sale of the mutual funds and the shares belonging to M/s K & Co. to be conducted through counsel of parties jointly within a week and the amount so realized was to be deposited with the Registrar of this Court and kept in the FDR. It was agreed that the order of the Division Bench finally settled the issue of security pending disposal of the arbitration proceedings between the parties and parties agreed to cooperate in expeditious disposal of the arbitration proceedings.

5. Considering the settlement arrived at between the parties before Division Bench of this Court, the issue of security stands finally settled by mutual consent of parties. In my view, the instant application/petition made by the petitioner is not maintainable and is hereby dismissed. No orders as to costs.

May 15, 2009
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SHIV NARAYAN DHINGRA J.