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

+ **CS(OS) 2200/2003**

M/S ARORA CONSTRUCTION CO. LTD. Plaintiff

Through: **Ms. Anusuya Salwan & Mr. Abhishek
Pandia, Advs.**

Versus

BHARAT SANCHAR NIGAM LTD. & ORS. Defendants

Through: **Mr. M.M. Sudan & Mr. M.K. Vasisht,
Advs.**

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

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09.11.2016

IA No.13874/2016 (of the defendants for withdrawal of the amount)

1. This suit, on 24th July, 2013, was disposed of as withdrawn but the amount of Rs.5,00,000/- deposited by the plaintiff in this Court and ordered to be kept in a fixed deposit was ordered to remain lying deposited “till the outcome of the proceedings before the Arbitrator”.
2. The defendants have filed this application for release of the amount stating that the arbitration award has been published on 6th June, 2016 in favour of the defendants / applicants and the defendants / applicants are now entitled to withdrawal of the said amount.
3. The counsel for the plaintiff appears on advance notice and seeks time to file reply.
4. Considering the nature of the application, need for a reply is not felt.
5. The counsel for the plaintiff then states that objections under Section 34 of the Arbitration and Conciliation Act, 1996 have been filed against the award and which are coming up for hearing on 8th December, 2016.

6. The same does not come in the way of the application being allowed.
7. The amount was ordered to be retained in this Court only till the outcome of the proceedings before the Arbitrator and not till the outcome of the objections if filed to the award. Moreover, if the plaintiff has any case for the said amount to be not released in favour of the defendants / applicants, the plaintiff has to seek orders therefor in the Section 34 proceedings and not in this suit.
8. The counsel for the plaintiff then states that the defendants / applicants in the application are also seeking a direction to the plaintiff to pay the balance amount claimed to be due to the defendants / applicants.
9. Needless to state, such an order cannot also be issued in this proceeding. All that the defendant would be entitled to besides the amount deposited would be the interest accrued on the amount of Rs.5,00,000/- while the same was lying deposited in this Court.
10. The application is allowed to the aforesaid extent.
11. The amount of Rs.5,00,000/- lying deposited in this Court together with interest accrued thereon be released to the defendants / applicants by way of a demand draft in the name of **“Accounts Officer (Cash), BSNL, GMTD, Faridabad.”**
12. The application is disposed of.

RAJIV SAHAI ENDLAW, J

NOVEMBER 09, 2016

‘gsr’..