

Court No. - 8

Case :- MATTERS UNDER ARTICLE 227 No. - 6505 of 2023

Petitioner :- M/S, Aditya Construction, Lucknow Thru. Partner, Sri. Akhil Bansal

Respondent :- Commercial Court No. 1, Lucknow And Another

Counsel for Petitioner :- Pritish Kumar, Amal Rastogi

Hon'ble Pankaj Bhatia,J.

1. Heard the counsel for the petitioner.
2. The present petition has been filed by the petitioner challenging the order dated 19.12.2023 whereby the Commercial Court refused to grant an injunction, as prayed by the petitioner, in their application filed under section 9 of the Arbitration and Conciliation Act.
3. The submission of the counsel for the petitioner is that an agreement was executed in between, the petitioner and the respondent no.2 herein on first day of August 2022. The said agreement was for a period of three years. In terms of the said agreement, certain obligations were to be fulfilled by the petitioner with regard to construction etc., which according to the petitioner, have been partly completed. Photographs of the tower raised by the petitioner is annexed along-with the application.
4. It is argued that despite the term of the agreement not coming to an end, a notice has been served terminating the agreement at the instance of the respondent no.2. It is argued that there is no provision for termination of the agreement.
5. In terms of the agreement executed in between the parties, there exists an arbitration clause, however, the arbitration has not yet been appointed. In view of the fact that the petitioner had made substantial investments in raising constructions, the petitioner approached the Commercial Court by moving an appropriate application under section 9. The Commercial Court vide the impugned order was of the view that as the notice for termination has already been issued, no good ground for grant of ex-parte injunction is made out. Steps were directed to be taken to serve notice on the respondents.
6. As, the petitioner has raised substantial constructions in terms of the agreement, clearly a prima-facie case exists in favour of the petitioner and the commercial court ought to have exercise its power.
7. As the Commercial Court, after service of notice, has fixed

the matter on 11.01.2024 for hearing on injunction application, the present petition is disposed off directing the Commercial Court to hear and decide the application 6-C on 11.01.2024 in terms of the date fixed.

8. Till 11.01.2024, the parties shall maintain status-quo in respect of the title and possession over the property in question.

9. The writ petition stands ***disposed off*** in terms of the said order.

Order Date :- 22.12.2023

VNP/-