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

+ CS(OS) 1850/2014 and I.A. 1526/2014

N. S. ASSOCIATES PVT LTD Plaintiff
Through: Mr. Tarique Siddiqui, Advocate with
Mr. S. Ahmed, Advocate

versus

NATIONAL BUILDING CONSTRUCTIONS LIMITED & ANR
..... Defendants
Through: Mr. S.C. Gupta, Advocate

CORAM:
HON'BLE MS. JUSTICE HIMA KOHLI

ORDER
% 25.03.2015

1. On the last date of hearing, counsel for the defendants/NBCC was requested to obtain instructions from his clients if they would be willing to submit the dispute between the parties to arbitration on the condition that the plaintiff shall be directed to keep the bank guarantees in question alive during the currency of the contract and till an award is made by the Arbitrator.
2. Today, counsel for the defendants/NBCC states that his clients are not inclined to opt for ADR and would rather contest the present suit on merits.

3. Pleadings are complete in the suit. However, admission/denial of documents has yet to take place.

4. At this stage, counsel for the plaintiff states that on 13.06.2014, an *ex parte* ad interim order was passed, restraining the defendants from encashing the bank guarantees as detailed in para 7 of the said order, on the condition that the plaintiff shall keep those bank guarantees alive till further orders. Counsel draws the attention of the Court to the order dated 02.07.2014. On 02.07.2014, the statement of the counsel for the defendants was recorded to the effect that the defendants had neither invoked and nor were they going to invoke the bank guarantees in respect of which a restraint order has been passed.

5. Counsel for the defendants responds by clarifying that the statement made on 02.07.2014 was to the effect that the defendant No.1 had not invoked the bank guarantees in question as on 02.07.2014 and adds that even as on date, the said bank guarantees in respect whereof a restraint order has been passed, have not been invoked by his clients.

6. Counsel for the plaintiff states that in view of the aforesaid submission made by the counsel for the defendants, he does not wish to pursue the suit any further. However, the plaintiff reserves its right

to seek its legal remedies against the defendants in case a fresh cause of action arises in the future.

7. Leave, as prayed for, is granted. The suit is disposed of alongwith the pending application.

HIMA KOHLI, J

MARCH 25, 2015

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