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

+ **FAO (OS) 328/2015**

STEEL AUTHORITY OF INDIA LTD

..... Appellant

Through : Mr Arvind Nigam, Sr Advocate with Mr Sharat Kapoor

versus

SIXTH DIMENSIONS PROJECT SOLUTION LTD

..... Respondent

Through : Ms Mamta Tiwari with Mr Savinder Singh

CORAM:

HON'BLE MR. JUSTICE BADAR DURREZ AHMED

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

ORDER

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09.07.2015

This appeal is directed against the order dated 13.04.2015 passed by a learned Single Judge of this Court in OMP 856/2014. The said petition was filed by the respondent under Section 9 of the Arbitration and Conciliation Act, 1996 seeking certain interim directions. Essentially, what the respondent sought was a restraint order restraining the appellant herein from encashing two bank guarantees of Rs 40 lacs each on the ground that even the contract had not been signed between the parties and only a Letter of Intent (LOI) had been issued.

We are not going into the merits of the matter. We may point out, however, that on 01.08.2014, the learned Single Judge passed an order restraining the appellant herein from recovering the whole or any part of the amount of the said two bank guarantees. That order was not challenged by the appellant herein. The hearing in the petition was concluded on 13.04.2015 and the learned Single Judge passed the impugned order, wherein he directed that the interim order dated 01.08.2014 would continue during the

pendency of the arbitral proceedings, subject to modification or clarification or even vacation by the learned Arbitrator in an application that may be filed by either party under Section 17 of the said Act.

We put a pointed question to Mr Nigam, the learned senior counsel appearing on behalf of the appellant, as to why the order dated 01.08.2014 was not appealed against. He answered that since the matter was pending before the learned Single Judge and it was only an ad interim order, the appeal was not filed. Now that the order has attained finality, the appeal has been filed.

We feel that the direction given by the learned Single Judge continues to be in the nature of ad interim order inasmuch he has given liberty to the parties to file an application under Section 17 of the said Act and has indicated that it would be open to the learned Arbitrator to modify, clarify and even vacate the interim order so passed.

In these circumstances, we do not see any reason to interfere with the impugned order. However, we make it clear that when such an application under Section 17 is made by either party, the learned Arbitrator, who is already in place, shall decide the application without being influenced by any opinion that may be expressed by this Court. It goes without saying that when such an application is made, the learned Arbitrator shall decide the same expeditiously.

The appeal stands disposed of.

BADAR DURREZ AHMED, J

JULY 09, 2015
SR

SANJEEV SACHDEVA, J