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***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION***

***COMMERCIAL APPEAL (L) No. 25 OF 2016
IN
COMMERCIAL ARBITRATION No. 67 OF 2016***

WITH

***NOTICE OF MOTION (L) No.21 OF 2016
IN
COMMERCIAL APPEAL (L) No. 25 OF 2016
IN
COMMERCIAL ARBITRATION No. 67 OF 2016***

Arohi Infrastructure Private Limited and Ors.Appellants

Vs.

Tata Capital Financial Services Limited ...Respondents

WITH

***COMMERCIAL APPEAL (L) No. 30 OF 2016
IN
COMMERCIAL ARBITRATION No. 67 OF 2016***

WITH

***NOTICE OF MOTION (L) No. 28 OF 2016
IN
COMMERCIAL APPEAL (L) No. 30 OF 2016
IN
COMMERCIAL ARBITRATION No. 67 OF 2016***

Tata Capital Financial Services Limited ...Appellants

Vs.

Arohi Infrastructure Private Limited and Ors. ...Respondents

Mr. Ravi Prakash a/w. Mr. Subir Kumar a/w. Budhaditya Bhattacharya i/b. Subir Kumar for Appellants in Commercial Appeal (L) No. 25 of 2016 and Respondents in Commercial Appeal (L) No. 30 of 2016.

Mr. S.U. Kamdar, Senior Counsel a/w. Mr. Ashok Paranjpe a/w. Tushar Kadam a/w. Deepan Dixit i/b. MDP & Partners for Appellants in Commercial Appeal (L) No. 30 of 2016 and Respondents in Commercial Appeal (L) No. 25 of 2016.

***CORAM : V. M. KANADE &
Mrs. SWAPNA S. JOSHI, JJ***

DATE : SEPTEMBER 30, 2016

P.C. :

1. Heard the learned counsel appearing on behalf of the Appellants and Respondents in both the Commercial Appeals.
2. Two orders have been challenged before us passed by the Learned Single Judge viz. (1) dated 25th August, 2016 and (2) dated 30th August, 2015. The controversy is as to whether interim order passed by the Learned Single Judge [Coram: K.K. Tated, J.] dated 25th February, 2016 granting order of status quo which was continued by order dated 1st March, 2016 till next date of hearing is continued. The matter was finally disposed of by a short order dated 25th August, 2016 passed in Arbitration Petition No. 1471 of 2015, which reads as under:

“The above Petitions shall be treated as Petitions under Section 17 of the Arbitration and Conciliation Act, 1996 by the learned Arbitrator and decided by the learned Arbitrator within a period of eight weeks from today. In view thereof, the above Petitions are accordingly disposed off.”

Thereafter, again a second order dated 30th August, 2016 was passed in Commercial Arbitration Petition (L) No. 110 of 2016 (Registration No. 67 of 2016), which reads as under:

“Without going into the controversy raised in the above Petition, the order dated 25th August, 2016 is set aside and Arbitration Petition No. 1471 of 2015 is kept for hearing on 1st September, 2016. The above Arbitration Petition is accordingly disposed of.”

3. Both the parties have challenged the said orders by filing commercial appeals viz. Arohi Infrastructure Pvt. Ltd. And Ors. have challenged the orders dated 25th August, 2016 by filing their Commercial Appeal (L) No. 25 of 2016 and Tata Capital Financial Service Ltd. have challenged the order dated 30th August, 2016 by filing their Commercial Appeal (L) No. 30 of 2016.

4. It is the contention of the learned counsel appearing on behalf of

the Appellants viz. Arohi Infrastructure Pvt. Ltd. that the interim order passed by Shri Justice K.K. Tated stands vacated. He has relied on the judgment of the Apex Court in the case of **Ashok Kumar and Ors. vs. State of Haryana and Anr. [(2007) 3 SCC 470]** in support of his contention.

5. On the other hand, Shri Kamdar, learned Senior Counsel appearing on behalf of the Appellants viz. Tata Capital Housing Finance Limited has submitted that since it has not been clarified whether the interim order is continued or not, they have filed Arbitration Petition (L) No. 110 of 2016, which was disposed of by the impugned order dated 30th August, 2016, setting aside the order dated 25th August, 2016 and Arbitration Petition No. 1471 of 2015 is now kept for hearing before the Learned Single Judge.

6. What happened during the intervening period is the question, which falls for consideration before this Court. Having perused the orders, it does appear that no reasons have been assigned by the Learned Single Judge while passing the orders dated 25th August, 2016 and 30th August, 2016. Obviously, since the Learned Single Judge was of the view that since the arbitration petition is being heard separately, no further orders are required.

7. In order to put an end of the said controversy, we are, therefore, of the view that it will be possible to set aside both the matters and remand back the matter to the Learned Single Judge, who may decide whether the interim order passed by Shri Justice K.K. Tated, should continue till hearing of the application under section 17 of the Arbitration and Conciliation Act, 1996 or not. In order to safeguard the interest of both the parties, status quo granted by Shri Justice K.K.Tated on 25th February, 2016 shall continue for a period of two weeks. The Appellants – Tata Capital Financial Services Ltd. may move before the Learned Single Judge for continuation of the interim order during the pendency of the Arbitration Petition No. 1471 of 2015.

8. Hence both the commercial appeals are disposed of. It is clarified that this interim order is passed only in order to facilitate both the parties to approach before the Learned Single Judge for necessary clarification. All contentions raised by both the parties are kept open.

9. The learned counsel appearing on behalf of the Appellants – Arohi Infrastructure Private Limited has made a request to ask the Learned Single Judge to decide the matter expeditiously. Accordingly

in view of the request made by the learned counsel for the appellants,
we request the Learned Single Judge to decide the matter expeditiously.

Mrs. SWAPNA S. JOSHI, J.

V.M. KANADE, J.

Vaishali Tikam