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

(i) + **FAO 64/2016 & CM No.4402/2016**

M/S PRAGATI AL RESOURCES PVT LTD Appellant

Through: Mr.Vishwendra Verma with
Ms.Shivali, Advocates

versus

NARESH PALIWAL Respondent

Through: Mr.Abhinav Gupta, Advocate

(ii) + **FAO 65/2016 & CM No.4404/2016**

M/S PRAGATI AL RESOURCES PVT LTD Appellant

Through: Mr.Vishwendra Verma with
Ms.Shivali, Advocates

versus

SUSHILA PALIWAL Respondent

Through: Mr.Abhinav Gupta, Advocate

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

ORDER

% **03.08.2016**

In the above captioned two appeals, the challenge is to the common impugned judgment of 13th January, 2016 vide which appellant's two applications under Section 9 of the *Arbitration and Conciliation Act* filed pertaining to two different arbitration agreements have been disposed of together due to the commonality of the pleas taken by the appellant.

With the consent of learned counsel for the parties, these two are being heard together and disposed of by this common order.

At the outset, learned counsel for the appellant submits that the

seat of arbitration in these two matters is in Delhi and since arbitration proceedings have been invoked by the appellant and in response to the notice sent by the learned Arbitrator, the stand of the respondent herein is that they are not appearing because of the pendency of these two appeals. The aspect of non-appearance is disputed by learned counsel for the respondents.

Though the learned counsel for the appellant maintains that the impugned order is not sustainable, but submits that since arbitration proceedings have commenced, therefore, permission be granted to appellant to file an application under Section 17 of the *Arbitration and Conciliation Act* before the learned Arbitrator with the clarification that the impugned judgment will not stand in the way of the learned Arbitrator to independently deal with the application under Section 17 of the *Arbitration and Conciliation Act* so filed.

In the facts and circumstances of this case, it is deemed appropriate not to comment on the legality of the impugned judgment and to permit the appellant not to press these two appeals with liberty to the appellant to file applications under Section 17 of the *Arbitration and Conciliation Act* for the same relief.

These two appeals and applications are accordingly disposed of while leaving the parties to bear their own costs.

Dasti.

(SUNIL GAUR)
JUDGE

AUGUST 03, 2016
gm