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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ O.M.P. (E) (COMM.) 8/2016
DELHI CHEMICAL AND PHARMACEUTICALS WORKS PVT.
LTD. & ORS. & ORS.

..... Petitioner
Through: Mr. Avneesh Garg, Adv. with
Mr. Kirat Singh, Adv.

versus

HIMGIRI REALTORS PVT. LTD.

..... Respondent
Through: Mr. Sacchin Puri, Adv. with
Mr. Gurmehar Sistani, Mr. Karan
Bhardwaj, Adv.

CORAM:
HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER
% **02.03.2016**

This is a petition under Section 27 of the Arbitration and Conciliation Act, 1996 for summoning of witnesses.

Mr. Sacchin Puri, learned counsel appearing for the respondent has taken an objection that the petition under Section 27 of the Arbitration and Conciliation Act, 1996 is not maintainable in view of the absence of the approval by the Arbitral Tribunal. He also states, the application initially filed by the petitioner was limited to four witnesses whereas, in the petition, the petitioner is seeking summoning of nine witnesses. He relies upon the

judgment of this Court in *DTC Vs. Tata Motors Limited, OMP No. 805/2014 decided on December 8, 2014* in support of his contention.

On the other hand learned counsel for the petitioner has drawn my attention to page 46 of the documents to contend that the Tribunal has granted liberty to the petitioner to approach this Court for summoning the witnesses.

I note, the order of the Tribunal under Section 27 of the Arbitration and Conciliation Act, 1996 reads as under:

“APPLICATION U/S. 27 OF THE ARBITRATION AND CONCILIATION ACT:

After some arguments the counsel appearing for the applicant in the application filed under Section 27 of the Arbitration and Conciliation Act, 1996, seeks permission to withdraw this application with a liberty to him to take appropriate remedy in the High Court directly in accordance with law.

In view of the said statement he is permitted to withdraw the application with liberty to take recourse to appropriate remedy, if available, under the law. The application stands disposed of in terms of the above order”.

In note, from the aforesaid order of the learned Sole Arbitrator, even though granted liberty to take recourse to appropriate remedy, the same was

in accordance with the law. That being so, in the absence of any approval of the Tribunal, the petitioner could not have filed this petition.

At this stage, learned counsel for the petitioner seeks to withdraw the present petition and approach the Arbitral Tribunal for seeking its approval for summoning the witnesses. In view of the statement, the present petition is dismissed as withdrawn, with liberty as prayed for.

V. KAMESWAR RAO, J

MARCH 02, 2016/akb