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

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**W.P.(C) 2770/2016**

Date of decision: 30<sup>th</sup> March, 2016

DRS LOGISTICS( P ) LTD AND ANR

..... Petitioner

Through Mr. Chander M. Lall and Ms. Nancy Roy  
Advocates.

versus

REGISTRAR GENERAL, DELHI HIGH COURT AND ORS

..... Respondent

Through Mr. Rajshekhar Rao and Mr. Varun  
Mishra, Advocates with Mr. Pawan Kalra, Deputy  
Registrar, Original Side.

**SANJIV KHANNA, J. (ORAL)**

We have heard the learned counsel for the petitioners.

2. The impugned notification dated 30<sup>th</sup> January, 2016, issued by the Registrar General of Delhi High Court records that the Benches designated as Commercial Division by Hon'ble the Chief Justice with effect from 12<sup>th</sup> January, 2016 will decide the commercial disputes, indicative that there would not be any part-heard matters, which would be decided by the Judges, who had been designated as a Commercial Division Judge prior to the new nomination/designation with effect from 12<sup>th</sup> January, 2016.

3. Learned counsel appearing for the Delhi High Court who appears on advance notice has filed before us a copy of the office order/noting dated 30<sup>th</sup> January, 2016 of Hon'ble the Chief Justice, which reads as under:-

“As per Section 7 of the Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Act, 2015, all suits relating to commercial disputes in a High Court having ordinary original civil jurisdiction shall be heard and disposed of by the Commercial Division of that High Court.

Therefore, in the event of any change in the judges nominated by the Chief Justice constituting the Commercial Division for the purpose of exercising the jurisdiction and powers conferred under the Act, the part heard matters, if any, except those matters where the judgment has been reserved, are to be released and to be listed before the nominated judges in the Commercial Division.”

4. Contention of the petitioners is that the aforesaid notification of the Registrar General and the notings/office order of Hon'ble the Chief Justice interfere with judicial discretion as part-heard matters should remain on the board of the Judge, who has partly heard the case. This has been the practice and convention of this Court. It is asserted that this ensures expeditious disposal of the suits as the counsel do not have to address arguments all over again. It is highlighted that in case the suit/application has to be re-heard, the parties would have to bear and incur additional expenditure and costs. If a case is being delayed,

the Judge concerned can release the case from part heard.

5. We have considered the said contentions, but do not find any reason or ground to hold that the office order/noting dated 30<sup>th</sup> January, 2016 can be struck down as arbitrary or contrary to law. As per the Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Act, 2015 (Act, for short), all suits and applications relating to commercial disputes in the Delhi High Court have to be heard and disposed of by a Commercial Division. The Act stipulates that in all High Courts, like Delhi High Court, having ordinary civil jurisdiction, the Chief Justice by an order would constitute a Commercial Division having one or more Benches consisting of a Single Judge for exercising jurisdiction and power conferred under the Act. Sub-section 2 to Section 4 states that the Chief Justice shall nominate such Judges of the High Court, who have experience in dealing with commercial disputes and such Judges will be designated as Judges of the Commercial Division. Section 5 relates to constitution of the Commercial Appellate Division. Section 7 relates to jurisdiction of the Commercial Division of the High Court and stipulates that all suits and applications relating to commercial disputes of a specified value etc. filed in the High Court which has Ordinary Civil Jurisdiction shall be heard and disposed of by the Commercial Division of that High Court. By necessary implication

section 7 stipulates that commercial disputes shall be decided by Judges, who have been nominated by the Chief Justice to function under Section 4 of the Act, as the Commercial Division Judge.

6. Sub-section 1 to Section 15 of the Act relates to transfer of pending suits in the High Court where a Commercial Division has been constituted. It states that all pending suits shall be transferred to the Commercial Division i.e. before a Judge who has been nominated to function as a Commercial Division. Proviso thereto, carves out an exception where a final judgment has been reserved by a Judge of the High Court or District Court prior to constitution of the Commercial Division. Thus, a distinction is made between cases where judgment has been reserved and all other pending cases. For the purpose of the proviso, it does not matter whether substantial arguments have been heard and the matter was part heard before a Judge of the High Court/District Court. All such matters have to be transferred to the Judge nominated to function as a Commercial Division.

7. Section 17 of the Act postulates maintenance of statistical data with regard to number of suits, applications and appeals etc. filed before the Commercial Division or Appellate Division etc. Data with regard to pendency of such cases, status of case, disposal, are required to be maintained and updated every month and the said data is to be published on the website of the relevant High Court.

8. Under Section 18, the High Court may by notification issue practice direction. Such practice directions dated 17<sup>th</sup> November, 2015 have been issued by the Delhi High Court for filing of matters and cases to be decided by the Commercial Division / Commercial Appellate Division.

9. Sections 19 and 20 relate to infrastructure and facility for working of Commercial Court or Commercial Division of the High Court and the State Government is to provide for establishment of necessary facilities etc.

10. Schedule to the Act relates to amendment, insertions etc. in the Code of Civil Procedure, 1908. These provide specific and strict timeline and schedule for speedy disposal of Commercial Disputes. Adverse consequences and penalties/costs are postulated, where parties delay the proceedings.

11. Having noticed in brief the relevant provision of the Act, we can understand and appreciate the object and purpose behind the office order/noting. The Act mandates that the Chief Justice of the High Court should nominate specific Judges, who would at a particular time function as the Commercial Division Judges. Data and details with regard to the commercial disputes has to be maintained and uploaded. As noticed above, Section 15 of the Act states that all pending cases shall be transferred to the Commercial

Division, except those where judgment has been reserved. Of course, this section is applicable when a Commercial Division is constituted at the initial stage. The office order/noting applies this principle even on change of roster and when new Judges are nominated as the Commercial Division Judges. If the plea of the petitioner is to be accepted, we would have two categories of Commercial Division Judges. The first category will be the then designated Commercial Division Judges, who would be hearing commercial disputes cases and the second category will be of Commercial Division Judges, specific to part-heard matters and not others.

12. Importantly, whenever there is a change of designated Commercial Division Judges, the earlier Judges who were dealing with commercial disputes now have to deal with cases as per the new roster. We all know and are aware about the heavy pendency and we can take judicial notice of the overflowing dockets. This can create difficulties and cause resultant delay in disposal of the commercial disputes. As noted above, the Act fixes a timeline/schedule and emphasis is on expeditious and speedy disposal. The said Judges would function both as Commercial Division Judges while dealing with part heard commercial disputes and also as non Commercial Division Judges, when deciding and conducting proceedings in other cases. Whenever there is change in practice, there is initial hesitation

and sometimes difficulties are perceived. These get worked out and the issues/problems get settled. The counsel are aware that there is no category of part-heard commercial cases. Some of the hypothetical problems as visualised may not in fact arise. In case, any practical difficulties or impediments are noticed, solutions can be found and if required, modifications can be made.

13. Learned counsel for the petitioner had drawn our attention to the order sheets in the particular case. This, we believe, cannot be a ground to accept the prayer and contention of the petitioner. Validity of the office order/noting cannot be challenged and judged either on a stray case or any unusual case, but on the generality of the situation.

14. It cannot be said that the office order/noting is unreasonable, against public interest or otherwise contrary to any statutory principle. The Chief Justice has the right to fix the roster and designate the Commercial Division Judges. The writ petition has no merit. Dismissed. No costs.

**SANJIV KHANNA, J.**

**NAJMI WAZIRI, J.**

**MARCH 30, 2016**  
**NA**