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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **FAO(OS) (COMM) 23/2016 & CM No. 15031/2016**
MANSHA INFRASTRUCTURE AND CONSTRUCTION PVT LTD
& ANR Appellant

Through : Mr. Sudhanshu Batra, Senior
Advocate with Ms.Gurkamal,
Advocate.

versus

RELIANCE CAPITAL LIMITED Respondent

Through : Mr. Dayan Krishanan, Senior
Advocate with Mr.Rajat Katyal,
Advocate.

CORAM:

HON'BLE MS. JUSTICE GITA MITTAL

HON'BLE MR. JUSTICE I.S.MEHTA

ORDER

% **29.04.2016**

1. Mr. Sudhanshu Batra, learned Senior Counsel appearing for the appellants informs us that pursuant to the impugned order dated 6th April, 2016, appointing a Receiver for the Crane in the proceedings under Section 9 of the Arbitration and Conciliation Act before the learned Single Judge, the Receiver has proceeded in the matter and has taken possession of the Crane. It is submitted that as a result, 400 workers and the DMRC project on which he was working has come to a grinding halt. It is further submitted by learned counsel for the appellant that the appellant has *bonafide* intention of making payment of every penny due to the respondent but is not in a position to do so on account of financial difficulties.

2. A prayer is made that the appellant be permitted to pay an amount of Rs. 30,70,000/- by way of a Demand Draft to the respondent and that he would make the balance payment within a reasonable period as may be considered by the court. He further prays that the impugned order may be modified and the Crane be released to the appellant on Superdari keeping in view the welfare of the 400 workers, employed on the project and its public nature.

3. Learned counsel for the respondent submits that the appellant is a habitual defaulter, who is disentitled to any indulgence from the court. It is further submitted that the appellant has several accounts which are overdue.

4. We are of the view that the Receiver having taken over the possession of the Crane by virtue of the impugned order, the present appeal is rendered infructuous. Consequently, the prayer made by the appellant before us is better placed before the learned Single Judge. In view of above, this appeal and the application are disposed of with liberty to the appellant to make an appropriate prayer seeking modification of the impugned order before the learned Single Judge.

We make it clear that we have not expressed any opinion on the merits of the rival contentions of the parties.

Dasti under the signatures of Court Master.

GITA MITTAL, J

I.S.MEHTA, J

APRIL 29, 2016/j

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