

\$~14

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

+ **FAO(OS) (COMM) 29/2016, CAV. 403/2016 & CM Nos.
17670-71/2016**

MAHLE ENGINE COMPONENTS INDIA PVT LTD

..... Appellant

Through: Mr. Arvind Nigam, Sr. Adv.
 with Mr. Sudhir Sharma,
 Mr. Sanjiv Sharma,
 Mr. Abhishek Swaroop and
 Mr. Anirudh Gandhi, Advs.

versus

BENARA BEARINGS & PISTONS LTD Respondent

Through: Mr. Rajeev Nayar and
 Mr. Sandeep Sethi, Sr. Advs.
 with Mr. Kartik Nayar,
 Mr. Prakhar Deep,
 Mr. Rihab Kumar and
 Mr. Saurabh Seth, Advs.

CORAM:

HON'BLE MS. JUSTICE GITA MITTAL

HON'BLE MR. JUSTICE I.S.MEHTA

ORDER

% **10.05.2016**

CAV.403/2016

Caveator is represented.

The caveat is discharged.

FAO(OS) (COMM) 29/2016 & CM Nos.17670-71/2016

1. The instant appeal has been filed against the interim order passed by the learned Single Judge on 29th April, 2016 in OMP(I)(Comm.)No.153/2016 under Section 9 of the Arbitration

and Conciliation Act, 1996. We are not inclined to examine the same for the reason that the appellant has approached us without seeking vacation of the interim order or having contested the Section 9 Arbitration & Conciliation application on merits so far by filing a reply. The relief prayed for by the appellant in the present appeal is available to the appellant before the learned Single Judge.

2. Mr. Arvind Nigam, learned senior counsel for the appellant, on instructions, prays for leave to withdraw this appeal to invoke the appropriate remedy for vacation of the interim order in accordance with law.

This appeal and applications are accordingly dismissed as withdrawn.

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

3. It is also made clear that if the cause of action for challenging the order dated 29th April, 2016 impugned herein subsists, needless to say, the appellant shall be at liberty to assail the same in accordance with law.

Copy of this order be given dasti to counsel for the parties under signatures of the Court Master.

GITA MITTAL, J

I.S.MEHTA, J

MAY 10, 2016/kr