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

+ O.M.P. (E) (COMM.) 24/2016

TELECOMMUNICATIONS CONSULTANTS INDIA LTD.

..... Petitioner

Through Mr.Ratan K. Singh, Adv. with
Mr.Nikhilesh Krishnan and Mr.Vipul
Agrawal, Advs.

versus

MAHESHWARI BROTHERS LIMITED (MBL)

..... Respondent

Through Ms.Anusuya Salwan, Adv. with
Ms.Renuka Arora and Mr.Kunal
Kohli, Advs.

CORAM:

HON'BLE MR. JUSTICE MANMOHAN SINGH

ORDER

% **31.08.2016**

The abovementioned petition has been filed by the petitioner under Section 27 (1) to (3) of the Arbitration and Conciliation Act, 1996 for seeking the following relief:

“Direct summoning of witness from the office of the Executive Engineer HSRDC Works, Khedar Provincial Division No. III, P.W.D. B & R Branch, Hisar (Haryana)-125001 hereby directing him to depute authorized and informed official to produce 18th RA and Final bill certified by HSRDC alongwith memorandum of payment, abstract of cost and measurement books in respect of the same and if the same is not ready than to inform status and reason of the same with copy of the status report and depose/testify on the same before the Ld. Arbitral Tribunal on 16.08.2016 at 2.30

PM at Niti Bagh Club, Niti Bagh, New Delhi and on such further dates as fixed before the Ld. Arbitral Tribunal”

It is submitted that the petitioner had moved an application under Section 27 of the Act before the Arbitral Tribunal for its approval for summoning of the witness from the Haryana State Roads & Bridge Development Corporation Ltd. (HSRDC).

It is stated in the petition that the Arbitral Tribunal by order dated 17th April, 2015 permitted summoning of witness from HSRDC in the following terms:-

“As regards 9(c), it relates to submission of 18th RA and final bill submitted with HSRDC. The Claimant has submitted that 18th RA and final bill is still not been finalized and the claimant has already placed on record the checked 18th RA bill along with the cost and measurement as obtained from HSRDC which is marked Annexure C-50. All the documents have already been dealt with except 9(c). Respondent say that latest position of the settlement of this final bill has not been placed on record. Counsel for the Claimant submits that it has not been finalized. In the circumstances, there is nothing to be produced but wherever some factual information is sought, the same can be produced by the witness from HSRDC. Respondent may, if it is so advised, summon the witness from HSRDC by approaching the Hon'ble High Court with respect to certified 18th RA and final bill. They are granted liberty to approach Hon'ble High Court.”

The Arbitral Tribunal allowed the said application under Section 27 of the Act by order dated 17th May, 2016. Relevant portion of the said order reads as under:

"In this case the Respondent has already moved an application for summoning the witness from HSRDC

through High Court. This Tribunal after hearing the parties is inclined to grant that application. Let the Respondent move the Hon'ble High Court for summoning its witness for 16th August 2016 at 2.30 PM at Niti Bagh Club, Niti Bagh, New Delhi."

Liberty was granted to move this Court for summoning of the above said witness. Copies of the said application as well as the order dated 17th May, 2016 have been filed along with the present petition.

Counsel for the respondent submits that the Arbitral Tribunal on 16th August, 2016 has also allowed the application of the respondent for summoning the very same witness and she submits that the said witness may be present on behalf of the respondent also along with the relevant record. Copy of order dated 16th August, 2016 is placed on record. Counsel for the petitioner has no objection to the same. Ordered accordingly.

The prayer made in the present petition is allowed. The Registry would issue summons to the said witness to bring records as mentioned in prayer clause of the petition, before the Arbitral Tribunal at the venue of Arbitration being Niti Bagh Club, Niti Bagh, New Delhi on 4th and 5th October, 2016 at 2:30 p.m.

The petition is accordingly disposed of.

MANMOHAN SINGH, J.

AUGUST 31, 2016/jk