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

+ **FAO(OS) (COMM) 52/2016**

PAWAN HANS HELICOPTERS LTD

..... Appellant

Represented by: Mr.Dhruv Dewan, Advocate with
Mr.Kostubh Devnani, Advocate

versus

M/S IDEB PROJECTS PVT LTD

..... Respondent

Represented by: Mr.V.Seshagini, Advocate with
Mr.Alok Tiwari, Advocate

CORAM:

HON'BLE MR. JUSTICE PRADEEP NANDRAJOG

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

% **31.08.2016**

1. As per tracking report respondent is served. Counsel as above appears for the respondent.
2. While issuing notice in the appeal on July 22, 2016, we had penned an order as under:-

"FAO(OS) (COMM) 52/2016

1. A perusal of OMP(Comm) 277/2016 would evince that the appellant has laid a challenge to the award dated February 03, 2016 as clarified on April 09, 2016 in so far claim Nos. 3 and 6 were allowed in favour of the respondent.

2. Pertaining to claim No.9, 50% costs of arbitration has been awarded and impacted challenge raised is by pleading that if claim Nos.3 and 6 are set aside, the issue relating to costs of arbitration would also arise for consideration and the prayer is that upon claim Nos.3 and 6 being set aside, even

claim No.9 which awards 50% costs of arbitration to the respondent is liable to be set aside.

3. While issuing notice, learned Single Judge has wrongly noted that challenge to the award is relating to claim Nos.3 and 6 only. This may be an unintentional error but we find that without giving any reason as to why challenge to claim No.6 is being rejected the learned Single Judge has issued notice in the OMP(Comm) 277/2016 limited to only claim No.3.

4. Since the impugned order is sans a reason as to why challenge to claim No.6 and 9 is being rejected, we issue notice.

5. The respondent be served by registered AD post as also e-mail returnable for August 31, 2016.”

3. Learned counsel for the respondent very fairly concedes that while issuing notice limited only qua claim 3, since there are no reasons as to why notice was not issued in OMP (Comm.) 277/2016 qua claim No.6 and claim No.9 the appeal may be disposed of setting aside the order dated May 20, 2016 in so far limited notice has been issued pertaining to claim No.3 allowed by the learned Arbitrator; simultaneously observing that it would be open for the learned Single Judge at the remanded stage to reconsider the pleas in OMP (Comm.) No.277/2016 and giving reasons decide whether limited notice qua claim No.3 alone would suffice or notice needs to be issued qua claim No.6 and 9 awarded in favour of the respondent by the learned Arbitrator. Meaning thereby, if qua claim No.6 and 9 notice is not being issued, in law it being that the challenge to the award to said claims fails, reasons have to be recorded.

4. Ordered accordingly.

5. The appeal is disposed of restoring OMP (Comm.) No.277/2016 in so far as claim No.6 and 9 are concerned, noting that OMP (Comm.) No.277/2016 is already surviving qua claim No.3.

6. No costs.

PRADEEP NANDRAJOG, J.

PRATIBHA RANI, J.

AUGUST 31, 2016

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