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

+ O.M.P.(I) 178/2015

ERA INFRA ENGINEERING LTD Petitioner
Through Mr.Vineet Tayal, Adv.

versus

BHARAT HEAVY ELECTRICALS LTD. & ANR Respondents
Through Mr.Sanjeev Anand, Adv. with
Mr.Pallav Kumar, Adv. for R-1.
Mr.Vivek Jain, Adv. with Mr.Sunil
Dalal & Mr.Abhishek Ghai, Advs. for
R-2.

CORAM:
HON'BLE MR. JUSTICE MANMOHAN SINGH

ORDER
% **09.03.2016**

The present petition has been filed by the petitioner under Section 9 of the Arbitration and Conciliation Act, 1996. The interim order was passed in favour of the petitioner. Learned counsel for respondent No.1 submits that the said respondent has already appointed the sole Arbitrator to adjudicate the disputes between the parties. However, the learned counsel for the petitioner has challenged the modus of the appointment of the Arbitrator by respondent No.1.

Learned counsel for respondent No.1 submits that since the sole Arbitrator appointed by his client has already entered upon reference, the interim order already passed may continue and the present petition be treated

as an application under Section 17 of the Arbitration and Conciliation Act, 1996 by the Arbitrator. Ordered accordingly. Without prejudice, counsel also submits that in case the petitioner will challenge the appointment of the sole Arbitrator by respondent No.1 and the petitioner would be able to succeed for the prayer, then the present proceedings may be transferred accordingly.

Under these circumstances, it is directed that the interim order already passed on 22nd April, 2015 shall continue till the time it is vacated or modified by the Arbitrator. The present petition be considered as an application under Section 17 of the Act by the Arbitrator. The petitioner to file the pleadings in this regard before the Arbitrator. In case any such petition would be filed by the petitioner, the same would be considered as per its own merits.

The petition is accordingly disposed of. No costs.

MANMOHAN SINGH, J.

MARCH 09, 2016/ka