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

+ **FAO(OS) 268/2015**

M/S MEJA URJA NIGAM PVT LTD

..... Appellant

Represented by: **Mr.L.B.Rai, Advocate with Mr.Mohit
Kumar Sharma, Advocate**

versus

M/S RATNA INFRASTRUCTURE PROJECT

PVT LTD & ANR

..... Respondents

Represented by: **Ms.Kiran Suri, Sr.Advocate
instructed by Mr.Purvash Buttan and
Mr.Fahad Imtiaz, Advocates**

CORAM:

HON'BLE MR. JUSTICE PRADEEP NANDRAJOG

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

% **11.02.2016**

CM No.30882/2015

1. The appeal was disposed of on May 18, 2015 without any notice issued to the respondent noting that the respondent had filed a petition under Section 9 of the Arbitration and Conciliation Act, 1996 to restrain the appellant from encashing the bank guarantee, which petition was disposed of by the learned Single Judge noting that the bank guarantee had already been encashed and therefore pending arbitration proceedings, upon the respondent depositing with the appellant a sum of ₹19 lakhs, the appellant would deposit the amount received under the bank guarantee with a bank for a period of six months and would renew the fixed deposit during the pendency of the arbitration proceedings. It was noted that the learned Single Judge had observed that the appellant was free to move an application before the

Arbitral Tribunal for a variation or modification of the order passed by the learned Single Judge.

2. In other words the appeal was disposed of in view of the remedy made available by the learned Single Judge to the appellant to seek variation of the order passed by the learned Single Judge by moving an application before the Arbitral Tribunal.

3. Labelled as an application for clarification/modification the prayer made is to either modify or make variation in the order dated April 21, 2015 that the appellant could file the application before the Arbitral Tribunal without complying with the direction contained in paragraph 4 of the order passed by the learned Single Judge.

4. Now, a clarification or a modification is sought of an order if there is an ambiguity in the order or its operation causes an inconvenience to a party or a subsequent event has taken place warranting an interim measure to be modified.

5. Masquerading as an application for modification/clarification the appellant virtually wants the appeal to be allowed because the prayer made if allowed would result in the impugned order passed by the learned Single Judge being set aside.

6. The application is dismissed.

7. No costs.

PRADEEP NANDRAJOG, J.

MUKTA GUPTA, J.

FEBRUARY 11, 2016

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