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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **O.M.P.(I) (COMM.) 378/2016**
ATC TELECOM INFRASTRUCTURE PRIVATE LIMITED

..... Petitioner

Through : Mr Sandeep Sethi, Sr Adv with Mr
Ajit Warriar, Mr Duhsyant Manocha
& Mr Angad Kochhar, Advs.

versus

RELIANCE COMMUNICATIONS LIMITED

..... Respondent

Through : Mr Chetan Sharma, Sr Adv with Mr
Chaitanya Safaya, & Mr Raghav
Pandey, Advs.

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+ **O.M.P.(I) (COMM.) 379/2016**
ATC TELECOM INFRASTRUCTURE PRIVATE LIMITED

..... Petitioner

Through : Mr Ajit Warriar, Mr Duhsyant
Manocha & Mr Angad Kochhar,
Advs.

versus

RELIANCE TELECOM LIMITED

..... Respondent

Through : Mr Chetan Sharma, Sr Adv with Mr
Chaitanya Safaya, & Mr Raghav
Pandey, Advs.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

% **21.09.2016**

IA Nos.11713-14/2016 in O.M.P.(I) (COMM.) 378/2016;and
IA Nos.11715-16/2016 in O.M.P.(I) (COMM.) 379/2016

Allowed, subject to all just exceptions.

The applications are disposed of.

O.M.P.(I) (COMM.) 378/2016; &
O.M.P.(I) (COMM.) 379/2016

1. The petitioner has filed these petitions under Section 9 of the

Arbitration and Conciliation Act, 1996 (hereafter 'the Act'), *inter alia*, praying as under:-

“O.M.P.(I) (COMM.) 378/2016

(i) Direct the Respondent to secure the amounts in arbitration by paying or depositing or otherwise securing the 'Payable MIC', as defined under Clause 1.1.20 of the Passive Telecom Infrastructure Sharing Agreement dated 23 September 2009 entered by and between Wireless TT Info Services Ltd. on one side and the Respondent and Reliance Telecom Limited ("RTL") on the other side, totalling an amount of Rs. 166,096,149 (Rupees Sixteen Crores Sixty Lakhs Ninety Six Thousand One Forty Nine only) alongwith applicable taxes and interest;

O.M.P.(I) (COMM.) 379/2016

(i) Direct the Respondent to secure the amounts in arbitration by paying or depositing or otherwise securing the 'Payable MIC', as defined under Clause 1.1.20 of the Passive Telecom Infrastructure Sharing Agreement dated 23 September 2009 entered by and between Wireless TT Info Services Ltd. on one side and the Respondent and Reliance Communications Limited ("RCom") on the other side, totalling an amount of Rs. 320,024,822/- (Rupees Thirty Two Crores Twenty Four Thousand Eight Twenty Two only) alongwith applicable taxes and interest;”

2. Its petitioner’s case that the respondent is intending to merge with Aircell and this is likely to increase the debt and, therefore, possibly frustrate the enforcement of any award that may be passed in favour of the petitioner.

3. Mr Chetan Sharma, learned senior counsel appearing on behalf of the respondent, on advance notice states, on instructions, that the

process of merger requires series of permissions/approvals which is likely to take one year and in any case there is no possibility of merger being effected within three months and that would be sufficient for the arbitral tribunal to be constituted.

4. In view of afore noted statement, learned counsel appearing for the petitioner, seeks to withdraw these petitions with the liberty to approach the arbitral tribunal for the same relief.

5. Accordingly, these petitions are dismissed as withdrawn with the aforesaid liberty.

VIBHU BAKHRU, J

SEPTEMBER 21, 2016

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