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

+ W.P.(C) 9436/2014 & CM No.21311/2014

M/S. KUSHAL SERVICES &

MARKETING PRIVATE LIMITED

..... Petitioner

Through: Mr. Rana S. Biswas and Mr. Sunil
Sharma, Advs.

versus

THE NORTHERN RAILWAY & ORS.

..... Respondents

Through: Mr. Jagjit Singh, Sr. Standing
Counsel with Mr. Preet Singh, Adv.

CORAM:

HON'BLE MR. JUSTICE J.R. MIDHA

ORDER

% **15.01.2016**

1. Learned counsel for the petitioner submits that vide letters dated 17th November, 2014 and 25th November, 2014, the respondents sought concurrence from the petitioner with respect to the recovery of Rs.26,56,327/- to enable them to release the balance amount to the petitioner. It is submitted that the petitioner did not give the said concurrence and, therefore, the respondents did not release any amount to the petitioner. It is further submitted that the petitioner has agitated the dispute with respect to the recovery of Rs.26,56,327/- before the arbitration and the petitioner is seeking release of the balance amount by the respondents without prejudice to the rights and contentions of the parties.

2. There is merit in the petitioner's contention. In view of the respondents' stand in the letters dated 17th November, 2014 and 25th November, 2014 that the respondents were seeking recovery of Rs.26,56,327/- only, the respondents are directed to refund the balance

amount i.e. the amount after retaining Rs.26,56,327/-, to the petitioner within a period of four weeks from today without prejudice to the rights and contentions of both the parties. The dispute between the parties with respect to Rs.26,56,327/- is already pending before arbitration.

3. The petitioner is claiming Rs.60,94,057/- (Rs.87,50,324/- - Rs.26,56,267/-) whereas the respondents claim that the payable amount to be Rs.28,16,518/- (Rs.54,72,845/- - Rs.26,56,327/-).

4. The respondents shall pass a well reasoned order containing the correct computation as per their records and send the said order to the petitioner along with the payment within a period of four weeks. The petitioner is permitted to agitate the balance claim, if any, before the arbitration. No other ground is urged.

5. The writ petition and all pending applications are disposed of in the above terms.

6. The copy of this order be given *dasti* to the parties under the signatures of the Court Master.

J.R. MIDHA, J.

JANUARY 15, 2016

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