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

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+ O.M.P.(I) 338/2015

SIMPLEX PROJECTS LIMITED

..... Petitioner

Through: Mr. S.D. Singh, Mr. Rahul Kr. Singh,
Mr. Kamla Prasad, Mr. Jitender
Singh, Mr. Aman, Advs.

versus

IRCON INTERNATIONAL LIMITED

..... Respondent

Through: Mr. Sunil Kumar, Senior Advocate
with Ms. Rohini Prasad, Advocate

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+ O.M.P.(I) 339/2015

SIMPLEX PROJECTS LIMITED

..... Petitioner

Through: Mr. S.D. Singh, Mr. Rahul Kr. Singh,
Mr. Kamla Prasad, Mr. Jitender
Singh, Mr. Aman, Advs.

versus

IRCON INTERNATIONAL LIMITED

..... Respondent

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with Ms. Rohini Prasad, Advocate

CORAM:

HON'BLE MR. JUSTICE J.R. MIDHA

ORDER

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11.01.2016

1. O.M.P.(I) 338/2015 relates to two bank guarantees totalling Rs.2,44,77,051/- whereas O.M.P.(I) 339/2015 relates to two bank guarantees for Rs.1,38,22,777/-. All the four bank guarantees have been encashed by the respondents. However, in terms of order dated 17th July, 2015, the

respondent has deposited the entire bank guarantees amount with the Registrar General of this Court and the said amount has been kept in fixed deposit vide order dated 11th August, 2015.

2. With respect to the disputes between the parties in O.M.P.(I) 338/2015, the petitioner has invoked the arbitration whereupon the respondent has furnished a panel of three names to the petitioner who has selected Mr. O.P. Gaddhyan, Ex. Addl. Director General, CPWD to act as the sole arbitrator.

3. In view of the appointment of the sole arbitrator by the parties, O.M.P.(I) 338/2015 is treated as an application under Section 17 of the Arbitration and Conciliation Act to be heard and decided by the learned arbitrator within a period of 60 days of entering upon the reference. The parties shall place the copies of the pleadings of this petition before the learned arbitrator within a period of two weeks from today whereupon the learned arbitrator shall fix a date for hearing the same as an application under Section 17 of the Arbitration and Conciliation Act. The petitioner is permitted to seek the prayer of recovery of the bank guarantee amount from the respondent before the learned arbitrator. Without prejudice to the rights and contentions of the parties and subject to the outcome of the Section 17 of the Arbitration and Conciliation Act by the learned arbitrator, the Registrar General shall release the bank guarantee amount of Rs.1,44,77,051/- (out of Rs.2,44,77,051/- deposited by the respondent) along with interest accrued thereon to the respondent within a period of two weeks. The balance amount of Rs.1 crore along with interest accrued thereon shall remain with the Registrar General of this Court in fixed deposit till the decision of Section 17 application by the learned arbitrator.

4. With respect to O.M.P.(I) 339/2015, the disputes between the parties have already been adjudicated by the learned arbitrator vide award dated 31st

December, 2012 against which the respondent has filed objections before Sub-Judge 1st, Patna. Without prejudice to the respective contentions of the parties and subject to final outcome of the respondent's objections under Section 34 of the Arbitration and Conciliation Act, the bank guarantee amount of Rs.1,38,22,777/- deposited by the respondent along with interest accrued thereon be released to the petitioner within a period of two weeks.

5. Both the petitions are disposed of in the above terms. It is clarified that this Court has not examined merits of this case which shall be considered by the learned arbitrator on its own merits.

6. Copy of this order be given *dasti* to counsels for the parties under signature of Court Master.

J.R. MIDHA, J.

JANUARY 11, 2016

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