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

+ O.M.P.(I) 586/2015 & I.A. No.23569/2015

MAHYCO MONSANTO BIOTECH (INDIA) PVT. LTD..... Petitioner
Through Mr.Gopal Jain, Sr. Adv. with
Mr.Apoorve Vashistha and
Mr.Prashant Pakhiddey, Advs.

versus

NUZIVEEDU SEEDS LTD Respondent
Through Mr.Rajiv Nayar, Sr. Adv. with
Mr.Dheeraj Nair & Mr.Varghese
Thomas, Adv.

CORAM:

HON'BLE MR. JUSTICE MANMOHAN SINGH

ORDER

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16.02.2016

The petitioner has filed the present petition under Section 9 of the Arbitration and Conciliation Act, 1996. On 19th October, 2015 when the petition was listed before the Court, the following order was passed:-

"Notice.

Mr. Sunil Mathews, the learned counsel for the respondent accepts notice. He seeks and is granted four weeks' time to file a reply. Rejoinder, if any, before the next date of hearing.

The petitioner seeks to secure an amount of Rs.21,37,78,123/ towards payment of license fee/trait fee (Royalty) for (i) Genetically Modified Hybrid Cotton Planting Seed containing First Monsanto B.t. Gene (as defined therein known as Bollgard I) and (ii) Genetically Modified Hybrid Cotton Planting Seed containing Second Monsanto B.t. Gene (as defined therein known as Bollgard II) which have been licensed to the respondent for the purpose of using such technology in its proprietary germplasm and to produce and sell such seeds to the farmers.

The petitioner's request for payment of the said monies have not been honoured by the respondent. Prior to the invocation of the arbitration clause, the petitioner seeks the amount to be secured through a No Lien Account in the respondent's bank.

This Court is of the view that if the said amount is not secured, the petitioner could well be put to irreparable injury. The balance of convenience lies in favour of the petitioner.

In the circumstances, the respondent is directed to secure an amount of Rs.21,37,78,123/- through a No Lien Account with its bank and furnish details of the same before the next date. The said funds shall not be reduced without prior permission of the Court.

List on 16.02.2016."

Upon service, the respondent has filed the application being I.A. No.23569/2015 for vacation of order dated 19th October, 2015. The matter was adjourned to 3rd December, 2015 for the purpose of completion of pleadings. Thereafter, the matter was taken on 22nd January, 2016 when certain submissions were made by the parties. When the matter is listed before the Court for remaining arguments, both parties have made certain suggestions by way of interim arrangement and have requested that the present petition be disposed of on the following terms:-

- (i) The petitioner as well as the respondent as per the arbitration clause have appointed their respective Arbitrators. Now, both the Arbitrators have to appoint a Chairman. The same is likely to be appointed very shortly.
- (ii) The parties agreed that after commencement of the proceedings, the present petition as well as the application for vacation of the interim order would be treated as petition under Section 17 of the Act which would be decided by the Arbitral Tribunal as per their own merits.

- (iii) The petitioner has no objection if the securing of the amount as indicated in the order dated 19th October, 2015 be extended for a period of three weeks from the date of commencement of the arbitration proceedings which would be at liberty to decide the abovementioned applications within such time or any time extended by the learned Arbitral Tribunal.
- (iv) All the pleadings of the OMP would be filed by the petitioner, once the Arbitral Tribunal would enter the reference.

Ordered accordingly. No further orders are required to be passed. The present petition is accordingly disposed of.

Copies of this order be given *dasti* to both the parties, under the signatures of the Court Master.

MANMOHAN SINGH, J.

FEBRUARY 16, 2016/ vp