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

\+ ARB. A. (COMM.) 2/2015

DV ANAND ..... Petitioner

Through Mr.Raman Kapur, Sr. Adv. with Mr.Aviral Tiwari, Adv.

versus

HINDUSTAN PETROLEUM CORPORATION LIMITED ..... Respondent

Through Mr.Pradyuman Dubey, Adv.

CORAM:
HON'BLE MR. JUSTICE MANMOHAN SINGH

<u>O R D E R</u>

% 19.04.2016

The present petition has been filed under Section XXXVII (2) (b) of the Arbitration and Conciliation Act, 1996 against the order dated 30th October, 2015 whereby the learned sole Arbitrator has passed the certain directions. The operative part of the directions reads as under:

> "1. The Claimant is directed to deposit 50% of penal amount by DD to the Respondent and balance 50% amount be provided by way of Bank Guarantee from a scheduled bank, as security.
>
> 2. The Respondent shall resume the supplies of the Claimant Immediately on realization of 50% payment and on receipt of balance 50% as Bank Guarantee.
>
> 3. That adducing the evidence as pleaded by Claimant in the arbitration hearing is rejected in light of Section 19 of Arbitration & Conciliation Act 1996 and Section 1 of Indian

> Evidence Act 1872. That if the parties want to lead the evidence the same can be by way of submitting affidavits."

The matter was heard on the last date of hearing also. The time was granted to the learned counsel for the respondent to receive the instructions who submits that his client is not prepared to give the consent with regard to the offer made by the learned counsel for the appellant suggesting that instead of deposit of the 50% of penal amount by DD to the respondent and balance 50% amount by way of Bank Guarantee from a scheduled bank, the appellant is prepared to give the bank guarantee for the entire amount as directed in the impugned order.

Having heard the learned counsel for the parties, it appears to me that the suggestion made by the appellant is quite reasonable. Thus, the order dated 30th October, 2015 passed by the learned Arbitrator is modified to the extent that instead of deposit of the 50% of penal amount by DD to the respondent and balance 50% amount by way of Bank Guarantee from a scheduled bank, the appellant will furnish the bank guarantee for the entire penal amount before the Arbitrator within two weeks from today.

The petition is disposed of accordingly.

Dasti to both the parties under the signatures of the Court Master.

MANMOHAN SINGH, J.

APRIL 19, 2016/jk