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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **FAO(OS) 97/2017, C.M. APPL.13019-13020/2017**
RAJ BABU PRADHAN @ RAJ BABU & ORS Appellants
Through : Sh. Sanjeev Ralli and Sh. Prabhav Ralli,
Advocates.

versus

KOTAK MAHINDRA BANK LTD Respondent
Through : None.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MR. JUSTICE YOGESH KHANNA

% **ORDER**
10.04.2017

The appellants' grievance is to the extent that the learned Single Judge held that this Court possesses territorial jurisdiction, by overruling its contention based on Section 2(1)(e) of the Arbitration and Conciliation Act, 1996 [hereafter "the 1996 Act"].

By the impugned order, learned Single Judge allowed an objection by the respondent. The objection had two alternative pleas, i.e. that the Delhi Courts do not possess jurisdiction and alternatively, that having regard to the pecuniary jurisdiction of the Court, this Court should not entertain the objections. Learned Single Judge accepted the latter but rejected the first objection with respect to territorial jurisdiction basing his reasoning upon the five-Judge decision in *Bharat Aluminium Co. v. Kaiser Aluminium Technical Services Inc.* 2012 (9) SCC 552 [hereafter "Balco (supra)"].

Sh. Sanjeev Ralli, learned counsel endeavoured to urge that the context of *Balco (supra)* was entirely different and that the Larger Bench was not essentially called upon to decide or interpret Section 2(1)(e) of the 1996 Act but rather its remit was to decide issues of jurisdiction with respect to foreign arbitral proceedings and awards and also the power of the Court to make interim orders. This Court notices that the learned Single Judge did consider the interplay between Section 2(1)(e) on the one hand and the findings of the Supreme Court in *Balco (supra)*. Furthermore, the Court also notices that the observations in *Balco (supra)* are not limited to the conclusions which were relied upon in the appeal but also encompasses other views expressed in the context of curial jurisdiction of the Court supervising proceedings. The relevant observations with respect to proceedings under Section 17 and the jurisdiction of the appropriate Court to oversee such interim awards in *Balco (supra)* are as follows:

“.....if the arbitration is held in Delhi, where neither of the parties are from Delhi (Delhi having been chosen as a neutral place as between a party from Mumbai and the other from Kolkata) and the tribunal sitting in Delhi passes an interim order under Section 17 of the Arbitration Act, 1996, the petition against such an interim order under Section 37 must lie to the Courts of Delhi being the Courts having supervisory jurisdiction over the arbitration proceedings and the tribunal. This would be irrespective of the fact that the obligations to be performed under the contract were to be performed either at Mumbai or at Kolkata, and only arbitration is to take place in Delhi.....”

Having regard to the above observation, this Court is of the opinion that there is no merit in the appeal. It is accordingly dismissed along with the pending applications.

S. RAVINDRA BHAT, J

YOGESH KHANNA, J

APRIL 10, 2017/ajk