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

+ FAO(OS) 117/2017 and CM Nos.14609-10/2017

INTERNATIONAL BREWERIES PVT LTD ... Appellant

Through : Mr. Kirti Uppal, Sr. Adv.
 with Mr. Abhishek Gautam
 and Ms. Suruchi Mittal,
 Advs.

versus

MOHAN MEAKIN LTD

..... Respondent

Through : Mr. Sandeep Sethi, Sr. Adv.
 and Mr. Raman Kapoor, Sr.
 Adv. along with Mr. Pradeep
 Kumar Mittal and Mr.
 Praveen Kumar Mittal,
 Advs.

CORAM:

HON'BLE THE ACTING CHIEF JUSTICE

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

% **19.04.2017**

CM No.14610/2017

Allowed, subject to just exceptions.

The application is disposed of.

FAO(OS) 117/2017 and CM Nos.14609/2017

1. The appellant assails an order dated 9th of March 2017 passed by the ld. Single Judge in OMP No.21/2012 whereby a

direction has been issued to the appellant herein to file an affidavit giving details of all its assets, both movable and immovable, in India and also to enclose therewith the updated statements of its bank accounts for the last three years. The ld. Single Judge has also directed the appellant to file its audited balance sheets for the last three financial years, if available, with it.

2. It is contended by Mr. Kirti Uppal, ld. Senior Counsel for the appellant that this direction ought not to have been passed inasmuch as, under the Arbitration and Conciliation Act, 1996, the arbitral tribunal by its final award dated 25th February, 2017 ruled in favour of the appellant and that it is the present respondent who has to deposit the entire amount.

3. The record placed before us would disclose the orders passed by the Division Bench on 18th August, 2008 in *FAO(OS)No.341/2008, Mohan Meakin Ltd. v. International Breweries Pvt. Ltd. & Ors.* as well as the ld. Single Judge directing the appellant to secure amounts if they were deposited by the respondent and release to him. The direction by the ld. Single Judge appears to be to facilitate in release of amounts, if so directed in the pending arbitral proceedings before him.

4. In view thereof, no interference is warranted in the impugned order.

5. We may also note that the present appeal appears not to be maintainable under Section 37 of the Arbitration and Conciliation Act, 1996.

6. A submission is made by Mr. Kirti Uppal, Id. Senior Counsel that the respondent had invoked the jurisdiction of the Id. Single Judge under Order XXXIX Rules 1 & 2 of the C.P.C. and the order has been passed thereunder. Consequently, it is the contention on behalf of the appellant that the appeal is maintainable under the provisions of Order XLIII of the C.P.C. as well as under Section 10 of the Delhi High Court Act.

7. We may observe that the impugned order dated 9th March, 2017 does not make any such disclosure. Be that as it may, it would remain to be examined as to whether the provisions of the C.P.C. and the Delhi High Court Act could be invoked in proceedings which admittedly arise under the Arbitration and Conciliation Act, 1996. We are however reserving any finding on this aspect or any other reason for not entertaining the present appeal.

8. Needless to say, it is open to any party to seek any appropriate relief as may be admissible in accordance with law.

9. The appeal as well as pending application are dismissed.

ACTING CHIEF JUSTICE

ANU MALHOTRA, J

APRIL 19, 2017

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