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

+ **FAO(OS) (COMM) 5/2017 & CM Nos.588, 8187, 8208/2017**

NORTHERN RAILWAY

..... Appellant

Through : Ms.Geetanjali Mohan, Adv.

versus

V K SOOD ENGINEERS AND CONTRACTORS

..... Respondents

Through : Mrs.Anusuya Salwan and Ms.Nikita
Salwan, Adv.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE YOGESH KHANNA

ORDER

% **21.04.2017**

The appellant is aggrieved by an order of the learned Single Judge dated 31.08.2016 to the extent it had injuncted withholding the payments to the respondent. The respondent apprehending that amounts eligibly due to it on account of agreement entered into with the appellant under a contract sought injunction contending that the amounts due to it (railways) did not pertain to the petitioner/contractor i.e. V.K.Sood Engineer & Contractor, of which Puneet Kumar Sood is a partner. The railways contending that the firm and the amounts due to it related to another contract. Noticing the contentions and the facts appearing on the record, the learned Single Judge encrypted part of the order which contains no reasons

for granting the injunction. During the course of hearing it is transpired that even as on date it is unclear whether the respondent/applicant who sought injunction have invoked arbitration clause. The amended Act which came into force in October, 2014 mandates that in the event of an injunction or an order or interim measure is granted by a Court under Section 9, the parties has to mandatorily seek arbitration within 90 days. Furthermore, once the arbitration commences the parties can seek recourse only to Section 17.

Apart from these considerations the Court is of the opinion that the impugned order does not contain any reasons as to why the relief claimed by the applicant needed to be granted.

In these circumstances the impugned order is set aside. The Court notices that pursuant to this Court's order, the appellant had deposited Rs.44 lakhs odd. The same shall continue to be treated as deposited subject to the orders of the Single Judge. The matter is remitted for fresh consideration by the concerned learned Single Judge. Parties to be present before the Single Judge on 2nd May, 2017.

The appeal is allowed in above terms.

S. RAVINDRA BHAT, J

YOGESH KHANNA, J

APRIL 21, 2017/VLD
FAO(OS) (COMM) 5/2017