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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Judgment delivered on: 19.06.2017

+ **CM (M) 657/2017**

YASH TECHNOLOGIES PRIVATE LIMITED

..... Petitioner

versus

CE INFO SYSTEMS PRIVATE LIMITED

..... Respondent

Advocates who appeared in this case:

For the Petitioner : Mr Raghavendra Mohan Bajaj

For the Respondent : Mr Kirti Uppal Senior Advocate with Mr Amit P.Deshpande.

CORAM:

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

JUDGMENT

19.06.2017

SANJEEV SACHDEVA, J. (ORAL)

CM No.22603/2017(exemption)

Allowed, subject to all just exceptions.

CM (M) 657/2017 & CM No.22602/2017(stay)

1. The petitioner impugns order dated 25.05.2017, whereby the learned Additional District Judge has noticed that the petitioner has

not taken proper steps for summoning of the original arbitral record. Petitioner has further been directed to deposit an amount of Rs. 12 lakhs within a period of ten days as against the arbitral award of Rs.20 lakhs with interest besides cost of Rs.1 lakh.

2. Issue notice. Notice is accepted by the learned counsel for the respondent.

3. Learned counsel for the petitioner submits that it was for the learned Court to summon the arbitral record, as the petitioner had written letters to the Arbitrator for transmitting the record to Court and the Arbitrator had, on the letter of the petitioner, made an endorsement directing the petitioner to get a requisition from the Court to submit the Arbitral Record.

4. Learned counsel for the petitioner points out to various proceedings of the Court wherein neither notice has been issued to the Arbitrator nor the directions issued to the Arbitral Tribunal to transmit the original records to the Court.

5. Learned counsel submits that the order dated 25.05.2017 has been passed as if the petitioner had committed default in not summoning the original arbitral record.

6. Learned counsel further submits that an application for stay of the arbitral award has been filed, which is pending and the direction contained in order dated 25.05.2017 is not a direction in terms of Section 36(3) of the Arbitration & Conciliation Act, 1996.

7. Learned senior counsel for the respondent submits that mere filing of a petition under section 34 of the Act does not amount to an automatic stay of the arbitral award in view of the amendment to the Act. He submits that since there is no interim stay, respondent is at liberty to take appropriate steps for enforcement of the award, till it is interdicted by an appropriate order of the Court.

8. Learned counsel for the petitioner contends that the provision of the un-amended Act will apply as the proceedings had commenced prior to the coming into force of the Amending Act.

9. The scope of this petition is restricted to order dated 25.05.2017, as such I am not required to enter into the above controversy and I accordingly leave the said issue open to be considered and decided at an appropriate stage, if so raised..

10. It is, however, noticed that there is no specific order of the learned Additional District Judge interdicting the arbitral award in any manner.

11. In the above circumstances, the order dated 25.05.2017, directing the petitioner to deposit a sum of Rs. 12 Lakhs, is set aside.

12. It is clarified that it would be for the learned Additional District Judge to summon the record from the Arbitral Tribunal.

13. The petition is accordingly disposed of.

14. *Dasti* under signatures of the Court Master.

SANJEEV SACHDEVA
(Vacation Judge)

JUNE 19, 2017/१९