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

+ **FAO(OS) 331/2016 & CM 42694/2016**

M/S ARORA CONSTRUCTION CO (PVT) LTD Appellant
Through: Ms Renuka Arora, Adv.

versus

BHARAG SANCHAR NIGAM LIMITED & ORS Respondents
Through: Mr Suryakant Singla, Adv. with Ms
Mayanka Dhawan, Adv.

CORAM:

HON'BLE MR. JUSTICE BADAR DURREZ AHMED

HON'BLE MR. JUSTICE ASHUTOSH KUMAR

ORDER

% **10.01.2017**

We have heard the learned counsel for the parties. The entire dispute is with regard to the sum of Rs. 5 lakh which was deposited by virtue of an order dated 19.07.2011 with the Registrar General of this court. Earlier this deposit was made in the suit being CS(OS) 2200/2003. That suit was subsequently withdrawn on 24.07.2013 and at that point of time the court had directed that the amount would remain lying deposited till the out come of the proceeding before the Arbitrator.

Thereafter the award has been made by the arbitrator on 27.06.2016. One of the claims in the award was claim no.4 which pertains to levy of compensation for the amount of Rs. 4,25,672/- under clause 2 of the contract between the parties. The appellant before us had claimed before the Arbitral Tribunal that this was not leviable, however, the Arbitral Tribunal has rejected this claim of the appellant. As a result of which, according to the respondents, the amount of Rs. 5 lakh was liable to be released to the respondent.

However, the learned counsel for the appellant points out that an application under Section 34 of the Arbitration and Conciliation Act, 1996 was filed on 02.09.2016 and the OMP arising therefrom, being OMP (COMM) 463/2016, is pending before a learned Single Judge of this Court and the next date in which has been fixed for 23.02.2017. The learned counsel for the respondents says that he has no notice of the OMP. Be that as it may, the filing of the petition under Section 34 would operate as an automatic stay of the award, particularly, in view of our recent decision in **Ardee Infrastructure Pvt. Ltd. v. Ms. Anuradha Bhatia (FAO (OS) No.221/2016)**; decided on 06.01.2017.

In view of the foregoing, the best course to adopt in the present appeal would be to direct that the said sum of Rs. 5 lakh would remain deposited with the Registrar General of this court and shall continue to be kept in an FDR as directed till a decision is taken in OMP (COMM) 463/2016.

The appeal stands disposed of accordingly.

BADAR DURREZ AHMED, J

ASHUTOSH KUMAR, J

JANUARY 10, 2017
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