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* IN THE HIGH COURT OF DELHI AT NEW DELHI
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\+ ARB. A. (COMM.) 48/2016

ANUJ SAYAL ..... Petitioner
Through: Mr. Abhinav Aghinotri with Mr. Deepak Vohra, Advocates.

versus

VARINDER SINGH JAWANDA & ORS ..... Respondents
Through: Mr. Arun Katpalia, Senior Advocate with Mr. Rajesh Gupta, Advocate for R-3.
Mr. S.K. Sharma, Advocate for Oriental Bank of Commerce.
Mr. Joydeep Mazumdar with Mr. A.S. Anand and Mr. Debojyoti Bhattacharya, Advocates for R-1.

CORAM: JUSTICE S.MURALIDHAR

O R D E R
% **04.01.2017**

IA No. 14920/2016 (for delay)

1. For the reasons stated therein, this application is allowed. The delay in filing the appeal is condoned.

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2. The challenge in this appeal under Section 37 (1) (a) of the Arbitration and Conciliation Act, 1996 ('Act') is to an order dated 13th April, 2016 passed by the Company Law Board ('CLB') New Delhi Bench, New Delhi

inter alia rejecting an application, being CA No. 243 of 2015, filed by the Appellant under Section 8 of the Act seeking reference of the disputes between the Appellant Anuj Sayal, the Respondent No. 1, Varinder Singh Jawanda, and other parties including FABPANDA Private Limited ('FPL') (Respondent No. 2 herein), to arbitration.

3. The background to the present appeal is that a Joint Venture Agreement ('JVA') was entered into between the Appellant and Respondent No. 1 on 28th May, 2014 for the purpose of incorporating Respondent No. 2 FPL with an authorized share capital of Rs. 1,00,000 divided into 10,000 ordinary shares of Rs. 10 each. FPL was incorporated on 18th June, 2014. According to the Appellant, his role and responsibilities included managing the operations of the company and that of Respondent No.1 was handling of legal matters, fund mobilization, finance and statutory liabilities. It is stated that JVA contains Clause 22.2 which provides for reference of any dispute arising out of the said JVA to arbitration.

4. The parties entered into a Shareholders Agreement ('SHA') dated 21st October, 2014 whereby Respondent No. 3, a Singapore entity, was to invest Rs. 7.8 crores in FPL for 26% of its shares. The said SHA also contains an arbitration clause.

5. The disputes that arose between the parties led to Respondent No. 1 filing Company Petition No. 19 of 2015 before the CLB to which FPL was made a party. The Appellant herein was Respondent No. 2 before the CLB. The grievance of Respondent No.1 before the CLB was that the Appellant herein was not allowing FPL to function and that the investment by Respondent

No. 3 was locked up. Respondent No. 3/Investor, RB Investment PTE Limited, filed CA No. 180 of 2015 before the CLB for release of the amount lying in the bank account of Respondent No. 2. On the same lines, Respondent No. 1 filed a separate application, CA No. 245 of 2015 for returning the investor's amount to the tune of Rs. 4.60 crores along with interest accrued in fixed deposit with Oriental Bank of Commerce ('OBC').

6. In the above background, the Appellant preferred CA No. 243 of 2015 under Section 8 of the Act seeking reference of the disputes to the arbitration. The Appellant invoked the arbitration clause in the JVA.

7. In the impugned order disposing of the three applications, the CLB rejected the prayer of the Appellant in CA 243 of 2015 on the ground that FPL was not a party to the JVA and the disputes sought to be referred concerned the release of monies that had accrued to the account of FPL.

8. Having heard Mr. Abhinav Aghinotri, learned counsel for the Appellant, Mr Joydeep Majumdar, learned counsel for Respondent No.1 and Mr. Arun Katpalia, learned Senior counsel for Respondent No. 3, the Court is of the view that there is no error in the conclusion reached by the CLB that the application of the Appellant before the CLB seeking reference of the disputes involving FPL to arbitration was misconceived.. Indeed, as far as the dispute that the Appellant may have with Respondent No. 1 arising out of the JVA is concerned, it will be open to the Appellant to seek appropriate remedies.

9. There is, therefore, no merit in this appeal and it is dismissed as such.

IA Nos. 14918/2016 (ad interim directions) & 15871/2016 (early hearing)

10. These applications do not survive and are disposed of as such.

S.MURALIDHAR, J

JANUARY 04, 2017
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