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IN THE HIGH COURT OF DELHI AT NEW DELHI

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O.M.P.(I) (COMM.) 499/2016

MULTITEX FILTRATION ENGINEERS LTD Petitioner
Through: Mr. Abhay Raj Varma with Mr. Nikhil
Arya and Ms. Priyanka Ghosh, Advocates.

versus

FERNAS CONSTRUCTION COMPANY INC
& ORS Respondents
Through: Mr. K.C. Dubey with Mr. Bharat Saini,
Advocate for R-1.
Mr. Sandeep Mahapatra with Mr. Dhruv Malik,
Advocates for R-3.

CORAM: JUSTICE S.MURALIDHAR

ORDER

08.03.2017

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1. Learned counsel appearing for Respondent No. 3, Turkiye Garanti Bankasi A.S., informs the Court that Respondent No. 3 has furnished a counter- guarantee (CG) to Respondent No. 2 and immediately upon invocation thereof the money for which the bank guarantee (BG) and the CG were issued stood transferred to account of Respondent No. 1. He states that this was done prior to receipt of intimation by it of the interim order dated 23rd February 2017 passed by this Court.

2. In view of the above development the interim order dated 23rd February 2017 passed by this Court has been rendered infructuous and is hereby vacated.

3. Learned counsel for the Petitioner submitted that the above action of Respondent No.3 would amount to a disobedience of the order dated 23rd February 2017 since according to him Respondent No.3 was aware of the order and yet remitted the amount to the account of Respondent No.1. The Court does not propose to examine this contention at this stage in these proceedings. If according to the Petitioner the BG and the CG in question were wrongly invoked and encashed, it can prefer a claim in that regard i the arbitral proceedings.

4. As regards the alleged disobedience of the interim order passed by this Court on 23rd December 2016, which has been rendered infructuous, it will be open to the Petitioner to seek other appropriate remedies as may be available to it in accordance with law.

5. It is clarified that the contentions of the parties on merits are left open to be urged at the appropriate stage in the arbitration proceedings.

6. The petition is disposed of in the above terms. Order be given *dasti* under the signature of the Court Master.

S.MURALIDHAR, J

MARCH 08, 2017

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