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IN THE HIGH COURT OF DELHI AT NEW DELHI

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CS(COMM) 587/2017 & IA No. 10184/2017 (under Order XXXIX Rule 1 & 2 CPC) & IA No. 10788/2017 (under Section 45 of Arbitration Act)

GMR CHHATTISGARH ENERGY LIMITED & ANR..... Plaintiffs

Through Ms. Shally Bhasin, Advocate

versus

DOOSAN POWER SYSTEMS INDIA PRIVATE LIMITED

..... Defendant

Through Mr.Nakul Dewan, Mr. Sumeet Lall,
Mr. Sidhant Kapoor, Ms.Neelu
Mohan and Mr. Zain Maqbool,
Advocates

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

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27.11.2017

1. Counsel for the plaintiffs seeks to withdraw the suit.
2. The counsel for the defendant though has no objection to the suit being dismissed as withdrawn but claims costs.
3. The counsel for the plaintiffs states (i) that the plaintiffs though had sought ex parte ad interim relief, but no ex parte ad interim relief was granted; (ii) that the defendant has not filed written statement even to the plaint as yet; and, (iii) that the hearings in this suit were owing to this suit being taken up along with CS (COMM) 447/2017 and which has been since dismissed vide judgment dated 14th November, 2017 and whereagainst an appeal has been preferred.
4. The counsel for the defendant contends that (i) the plaintiffs have been doing all within their power to delay the arbitration; (ii)

that the arbitration as per the agreement between the parties is of Singapore International Arbitration Centre; and, (ii) that the power project with respect to which disputes have arisen is at Chhatisgarh and the institution of the suit in this Court was not in accordance with the law and the plaintiffs should thus be burdened with costs.

5. The counsel for the defendant has handed over in the Court a bill of costs in the sum of Rs. 12 lacs.

6. I have perused the plaint and have enquired from the counsel for the plaintiffs, whether the suit for the reliefs claimed was maintainable at all.

7. The counsel for the plaintiffs states that the suit was filed as per the legal advice then obtained by the plaintiff.

8. Considering all the aforesaid facts and the fact that the suit instituted by the plaintiffs is a commercial suit, paying court fees on valuation of about Rs.1 crore only while the minimum pecuniary ordinary original civil jurisdiction of this court is Rs. 2 crores and that the plaintiffs on most of the dates have been represented before this Court through Senior Counsel, it is deemed appropriate to award costs to the defendant against the plaintiffs jointly and severally in the sum of Rs. 3 lacs.

9. Accordingly, the suit is dismissed as withdrawn with costs of Rs. 3 lacs payable jointly and severally by the plaintiffs to the defendant.

RAJIV SAHAI ENDLAW, J

NOVEMBER 27, 2017/mw.

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