

\$~39

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

+ **FAO(OS) (COMM) 203/2017 & C.M.Nos.43468-43470/2017**

M/S. AAXIS NANO TECHNOLOGIES PVT LTD. Appellant

Through: **Mr.Anup J.Bhambhani, Sr.Adv. with
Mr.Rajat Arora, Mr.Jaypreet Singh and
Mr.Avinash Singh, Advocates**

versus

M/S. S::CAN MESSTECHNIK GMBH

..... Respondent

Through: **Nemo.**

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER

%

29.11.2017

1. This is an appeal under Section 37 (1) (b) of the Arbitration and Conciliation Act, 1996 (as amended by the Arbitration Act, 2015) (hereinafter referred to as 'the Arbitration Act') read with Section 13 (1) of the Commercial Courts Act, 2015 challenging the impugned order dated 22.11.2017 passed by a Single Judge of this Court. The appellant had filed a petition under Section 9 of the Arbitration Act seeking the following reliefs:

“a) Pass and interim order to stay the termination letter dated 27.10.2017 issued by the Respondent till the matter is heard and finally decided by the Arbitrator;

b) Direct the Respondent to continue to perform its obligations as mentioned and required under the said Cooperation Agreement dated 31.01.2017 as executed between the parties, till the matter is heard and decided by the Arbitrator;

c) Pass any such orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case.”

2. After hearing learned Senior Counsel appearing for the appellant, we find no infirmity in the order passed by learned Single Judge, by which Prayers (a) and (b) have been declined.
3. At this stage, Mr. Anup J. Bhambhani, learned Senior Counsel, on instructions, submits that in addition to reliefs so sought, the appellant is also entitled to other reliefs in the form of interim protection which were not urged in the OMP (I) (COMM.) 481/2017, which was decided on 22.11.2017. Leave is sought to file another petition under Section 9 of the Arbitration Act to seek such reliefs as may be available in accordance with law except the reliefs sought for and declined by the learned Single Judge and affirmed by this Court.
4. Accordingly, the present appeal along with C.M.Nos.43668/2017, 43669/2017 & 43670/2017 is dismissed as withdrawn. Leave is granted to the appellant to file another petition under Section 9 of the Act to enable the appellant to seek such other reliefs which may be available in accordance with law barring the reliefs sought and declined.

G.S.SISTANI, J

V. KAMESWAR RAO, J

NOVEMBER 29, 2017

rb/

FAO(OS) (COMM) 203/2017

page 2 of 2