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IN THE HIGH COURT OF DELHI AT NEW DELHI

Decided on :6th December, 2017

+ CM(M) 1389/2017 & CM Nos. 44413-44414/2017

QAMAR WAHEED NAQVI Petitioner
Through: Mr. Sushil Dutt Salwan with
Mr. Arjun Garg, Advocates.

versus

INDEPENDENT NEWS SERVICES PVT LTD & ANR
..... Respondents
Through: Mr. Rohan Swarup, Advocate
for R-1.

CORAM:
HON'BLE MR. JUSTICE R.K.GAUBA

JUDGMENT (ORAL)

1. In the course of arbitral proceedings arising out of dispute (case reference No. DAC/952/04-15) on the claim of the first respondent against him, while submitting his reply, the petitioner also presented counter-claim, statedly beyond the permissible time, the delay in which regard has been condoned by the Sole Arbitrator, by the impugned order dated 28.04.2017, subject to payment of cost of Rs.15,000/-.
2. The petitioner invokes the writ jurisdiction of this Court to bring challenge to the aforesaid order, arguing he has no other remedy in law, referring in this context to dismissal as not maintainable of his appeal (arbitration appeal No. 2/17) under Section 37(2)(a) of the

Arbitration and Conciliation Act, 1996 by a learned Single Judge of this Court by order dated 11.08.2017.

3. The first respondent (claimant in the arbitral proceedings) is present on advance notice through counsel who submitted that the petition is not maintainable, referring in this context to a decision of a Constitution Bench of the Supreme Court reported as *SBP & Co. v. Patel Engineering Ltd. And Anr.* (2005) 8 SCC 618, as also a view to such effect taken by a learned Single Judge of this Court in Writ Petition (Civil) No. 2782/2010, *Cadre Estate Pvt. Ltd. V. Salochna Goyal and Ors.*, (2010) 119 DRJ 457.

4. Having heard the learned counsel on both sides, this Court finds the objection to the maintainability of the petition to be correct. The order sought to be impugned is what has been referred to in the judgment in *Patel Engineering Ltd. (supra)* as one of the “in-between orders”. Interference by this Court in such orders would undoubtedly defeat the object of minimising judicial intervention in the process of arbitration. There being no right of appeal available under Section 37, the petitioner will have to wait to raise grievance, if any, after the award is pronounced.

5. The petition and the applications filed therewith are, thus, dismissed as not maintainable.

R.K.GAUBA, J

DECEMBER 06, 2017

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