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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
APPEAL LODGING NO. 114 OF 2018
IN
ARBITRATION PETITION NO. 656 OF 2017
WITH
NOTICE OF MOTION LODGING NO. 212 OF 2018

GTL Limited

.. Appellant

Vs.

1. Maharashtra State Electricity Distribution
Company Ltd. and anr.

.. Respondents

Mr. Navroz Seervai, Senior Advocate a/w Mr. S. V. Doijode, Ms. Rashne Mulla-Feroze, Ms. Preena Salgia i/by Doijode Associates for appellant.

Mr. A. S. Daver a/w Mr. Kiran Gandhi, Mr. Nirav Shah, Mr. Anuj Jaiswal i/by Little & Co. for respondent no.1.

CORAM: NARESH H. PATIL &
G. S. KULKARNI, JJ.

MARCH 07, 2018.

P.C.

1. The appeal is directed against an order dated 28/2/2018 passed by the learned Single Judge (Coram: S. J. Kathawalla,J.) in Notice of Motion (L) No. 442 of 2018 in Arbitration Petition No. 656 of 2017.

2. The learned Senior Counsel appearing for the appellant submits that the bank guarantee was renewed for a period of six months. It was to expire on 5/3/2018. The learned counsel appearing for the respondent no.1 submits that the respondent no.1 has invoked the bank guarantee on 5/3/2018 at 5.15 p.m. The learned counsel for the respondent no.1 submits that as of now there was no instruction received stating that the payment has been received in the account of respondent no.1. The learned Senior Counsel for the appellant submits that an appropriate Notice of Motion would be circulated before the learned Single Judge by Monday 12/3/2018 in Arbitration Petition No. 656 of 2017.

3. We have perused the record placed before us. Considering the nature of controversy raised by the parties, we observe that it would be appropriate if the issues are raised before the learned Single Judge in a Notice of Motion to be filed by the appellant herein by Monday 12/3/2018 in Arbitration Petition No. 656 of 2017.

4. In view of the statement made by the learned counsel for the appellant that the Notice of Motion would be circulated by Monday 12/3/2018 before the learned Single Judge, we direct the respondent no.2 –

Bank not to disburse payment under the subject bank guarantee in favour of respondent no.1. However, we further observe that the further steps shall be taken subject to orders passed by the learned Single Judge in the Notice of Motion to be filed by the appellant. In case the appellant fails to prefer Notice of Motion by Monday 12/3/2018, then respondent nos.1 and 2 are at liberty to act on the subject bank guarantee.

5. The appeal is disposed of in the above terms.

6. Notice of Motion (L) No. 212 of 2018 does not survive and disposed of as such.

(G. S. KULKARNI J.)

(NARESH H. PATIL,J.)