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IN THE HIGH COURT OF DELHI AT NEW DELHI

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O.M.P. 29/2008

BHARAT SANCHAR NIGAM LIMITED (BSNL) Petitioner

Through: Mr. Ankur Mittal and Ms. Arushi
Bhatnagar, Advocates.
(M:9810506223)

versus

HARYANA TELECOM LIMITED Respondent

Through: Mr. Abhishek Sharma, Advocate.
(M:9654317787)

CORAM:

JUSTICE PRATHIBA M. SINGH

ORDER

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12.12.2018

The present petition has been filed challenging the award dated 8th October, 2007 passed by the learned Sole Arbitrator. The operative portion of the award reads as under: -

“25. The claimant has claimed Rs.5 crore as damages in addition to relief for specific performance. There is no merit in this prayer of the claimant inasmuch as such damages have been claimed for harassment etc. and do not naturally flow from the breach of the contract under Section 73 of the Contract Act. I, thus, make the award as follows:-

- I That the respondent shall within two months from the date of the award, place an order on the claimant for supply of 5.82 LCKM underground cables on the prices as agreed in the original contract.*
- II That the claim for damages in addition to the relief of specific performance is rejected.*

*III That the respondent shall pay to the claimant
Rs.one lac as costs of these proceedings.”*

As per the above award, BSNL was to place an order with Haryana Telecom Limited within two months from date of award for supply of underground cables. It is the admitted position as conceded by learned counsel for the Respondent that Haryana Telecom Limited is no longer in business and cannot execute the order, even if the award is upheld. Thus the award itself has been rendered infructuous.

Under these circumstances, the impugned award is set aside as Haryana Telecom Limited is no longer in business.

The O.M.P. is allowed with no order as to costs.

PRATHIBA M. SINGH, J.

DECEMBER 12, 2018

Rekha