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

+ **CONT.CAS(C) 453/2014**

M/S NATIONAL AGRICULTURAL COOPERATIVE

MARKETING FEDERATION OF INDIA LTD Petitioner

Through: Mr. Arush Pathania, Adv. with Mr.
Ravi Kainth, Executive Director,
Law.

versus

M/S OMNI POINT CORPORATION & ANR Respondents

Through: Mr. Ravi Sikri, Sr. Adv. with Mr.
S.N. Khanna and Mr. Deepank
Yadav, Advs.

CORAM:

HON'BLE MR. JUSTICE J.R. MIDHA

ORDER

% **08.02.2018**

1. The petitioner has initiated these proceedings for non-compliance of the order dated 24th September, 2012 passed by this Court in O.M.P. 253/2008.

2. Vide order dated 24th September, 2012 in O.M.P. 253/2008, this Court directed the respondent to file an affidavit before the learned Arbitrator with complete details including the utilisation of funds availed from the petitioner as well as details of the rent paid by the respondents to the landlord towards office premises. Relevant portion of the order dated 24th September, 2012 is reproduced hereunder:-

“I.A.No.16705 of 2012

1. The learned counsel for the parties have been heard. A direction is issued to the Respondents to file an affidavit before the learned Arbitrator before whom the arbitral proceedings are in progress within six weeks. The said affidavit will set out the complete details including the utilization of the funds availed from Petitioner, and furnish details of rent paid by the Respondents to the landlord towards office premises situated at Nehru Place, New Delhi. The affidavit will also enclose copies of statements of accounts along with bank day books and ledgers

since 2005 when the loan was disbursed wherever available, the original of which will be produced before the learned Arbitrator.

2. It will be open to the parties to file their respective affidavits of evidence and cross-examine the deponents of the affidavits within the time granted for that purpose by the learned Arbitrator.

3. The application is disposed of in the above terms. O.M.P. 253 of 2008.

4. The interim orders passed by this court on 09th may, 2008 and 20th May, 2011, are directed to continue, during the pendency of the arbitral proceedings.

5. The petition is disposed of in the above terms.”

3. Learned senior counsel for the respondents submits that the respondents have filed all the available documents before the learned Arbitrator.

4. Learned counsel for the petitioner submits that the respondents have not filed complete details of the utilisation of the funds availed by the respondent from the petitioner.

5. This Court is of the view that it is for the learned Arbitrator to examine whether the respondents have furnished complete details including the utilisation of funds availed by the respondents from the petitioner and the other relevant documents/information in terms of the order dated 24th September, 2012 and if the respondents have not complied with the order dated 24th September, 2012 in its true letter and spirit, the learned Arbitrator would be at liberty to draw adverse inference against the respondents in accordance with the law.

6. This petition is disposed of in the above terms.

7. Copy of this order be given *dasti* to learned counsels for the parties under signature of Court Master.

J.R. MIDHA, J.

FEBRUARY 08, 2018

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