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

+ W.P.(C) 4666/2018

M/S NATIONAL HOUSING BANK Petitioner

Through: Mr. Sandeep Prabhakar and
Mr. Vikas Mehta, Advs.

versus

WORKMEN OF M/S SOMC CAVELIERS PVT. LTD.

AND ANR. Respondents

Through: Mr. Jawahar Raja and Mr. Chinmoy
Kanojia, Advs. for R1.

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER

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28.05.2018

The present petition has been listed vide a supplementary list circulated in the pre-lunch session in view of the order of Hon'ble the Acting Chief Justice of today's date.

Respondent no.2 is unserved. Mr. Sandeep Prabhakar, learned counsel appearing for the petitioner on instructions intends to delete respondent no.2 from the memo of parties. Ordered accordingly. Let amended memo of parties be filed within two days.

The grievance of the petitioner in this writ petition is against the orders dated September 8, 2017 and January 30, 2018 passed by the CGIT Dwarka Courts, New Delhi in ID No.33/2011. It is contended by Mr. Prabhakar, learned counsel for the petitioner that the Tribunal has held, no adverse action be taken against the workmen / status quo of the workmen

shall continue during the pendency of the proceedings of the case. On an application filed by the petitioner itself, the Tribunal directed the petitioner herein to deposit the dues of ESIC and EPF in the respective accounts of the workmen. Mr. Prabhakar states, no such request was made to the Tribunal rather the request of the petitioner was that it intends to deposit the dues against the EPF and ESIC in the court itself. Mr. Prabhakar states that the said direction should not be construed that the petitioner is the employer of the workmen.

Mr. Jawahar Raja, learned counsel appearing for the sole respondent, i.e., workmen states he has no objection, if the petitioner deposit the ESIC and EPF dues in the respective accounts of the workmen without prejudice to its rights and contentions. Mr. Prabhakar is agreeable to the said submission of Mr. Raja. It is ordered accordingly.

In so far as the second direction that no adverse action shall be taken against the workmen / status quo of the workmen shall continue during the pendency of the proceedings is concerned, Mr. Prabhakar submits, such directions are without jurisdiction in view of settled law by this Court. He also states, such directions preclude the petitioner from engaging a new contractor. He also states that the petitioner is ready and willing to engage the workmen through new contractor.

On the other hand, it is the submission of Mr. Raja that petitioner should move an application for modification of order (s) stating that liberty be granted to the petitioner to engage workmen through a new contractor whom they intend to engage, after the expiry of present contract on June 30, 2018.

The submission made by Mr. Raja appears to be reasonable. It is

accordingly directed that petitioner shall move an application for modification of orders dated September 8, 2017 and January 30, 2018 by praying that petitioner be allowed to engage the workmen through a new contractor whom they intend to engage. On filing of such application, the Tribunal shall consider the same and pass appropriate orders in accordance with law.

In view of the above, the petition stands disposed of.

CM. No. 17981/2018

In view of the order passed in the petition, the application has become infructuous.

V. KAMESWAR RAO, J

MAY 28, 2018/jg