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

\+ O.M.P.(I) (COMM.) 247/2018 & IA 8045/2018

BALBIR SARAN ..... Petitioner

Through: Ms.Mukti Chaudhry, Mr.Nitin Gupta, Ms.K.Megha, Advs.

versus

ATUL KUMAR ..... Respondent

Through: Mr.Aditya Ganju, Adv.

CORAM:
HON'BLE MR. JUSTICE NAVIN CHAWLA

<u>O R D E R</u>

% **01.06.2018**

This petition has been filed under Section 9 of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as the 'Act') *inter alia* making the following prayers:

> *"(a) Freeze the bank account no. 114301500287 of the Respondent held with ICICI Bank, Times Tower, Gurgaon for a sum of Rs.1,27,12,896/- (Rupees One Crores Twenty Seven Lakhs Twelve Thousand Eight Hundred Ninety Six only) OR IN THE ALTERNATIVE direct the Respondent to furnish security/ bank guarantee for a sum of Rs. 1,27,12,896/(Rupees One Crores Twenty Seven Lakhs Twelve Thousand Eight Hundred Ninety Six only);*
>
> *(b) Freeze the Demat Account No. 00015852 of the Respondent held with Ambit Capital Private Limited (DP ID: 12047500) in respect of share of ORACLE FINANCIAL SERVICES SOFTWARE LIMITED;*
>
> *(c) pass such other or further order(s), which this Hon'ble Court may deem fit and proper in the facts and circumstances of the case."*

The disputes between the parties have arisen out of the Service Agreement dated 13th October, 2017 whereunder the petitioner was to provide services for realization of unpaid/unclaimed securities and benefits and other securities and dividend accrued thereon as detailed in Annexure-I to the agreement.

In consideration of this service, the petitioner was to receive fee equivalent to 15% of the sale proceeds of the shares, investments etc. realized/transferred in the name of the respondent and 15% of the value of any benefits accrued and/or realized on /from the said shares, investments etc. such as dividends.

It is the case of the petitioner that though the petitioner had provided the service as mentioned in the agreement, the respondent has issued instructions to the bank for stopping payment of the security cheques that had been given to the petitioner in terms of clause 5(B) of the agreement, thereby evidencing a *mala fide* intent.

Counsel for the respondent who appears on an advance notice, on instructions from the respondent Mr.Atul Kumar, S/o Sh.B.K.Aggarwal, who is present in Court and has produced his driving licence bearing No.HR-2620020019930, submits that there is no *mala fide* intent of the respondent in the present transaction. To show his *bona fide*, the respondent is willing to give an undertaking that incase any amount on realisation of the securities and/or dividend etc. as provided in the agreement is received by the respondent, 15% excluding applicable taxes thereof, shall be duly deposited in this Court within two weeks of receipt of such amount along with a statement showing the calculation thereof.

Binding the respondent to its undertaking and issuing a direction in terms thereof, it is further directed that on such deposit, the amount shall be invested in a fixed deposit and shall abide by further directions to be given by the Arbitrator to be appointed by the parties.

Counsel for the respondent further submits that the respondent has no intention to breach the terms of the Settlement Agreement. In view thereof, it would be open to the parties to arrive at a mutual settlement so that the fear of each other breaching the agreement can be answered.

The petition is disposed of in the above terms, with no order as to costs.

NAVIN CHAWLA, J

JUNE 01, 2018
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