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

+ O.M.P.(I) (COMM.) 254/2018

SWASTIK ENTERPRISE & ORS. Petitioners

Through: Mr.Ankit Shah, Adv.

versus

ELECTRONICA FINANCE LTD Respondent

Through: Mr.Rajat Katyal, Adv.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

ORDER

% **13.09.2018**

The present petition has been filed by the petitioners seeking an order of restraint on the respondent from seizing and taking possession of the machineries in terms of the Arbitral Award dated 2nd May, 2018 passed in arbitration proceedings baring No. ARB/EFL/07/2017 titled as *Electronica Finance Ltd. vs. Swastik Enterprises & Ors.*

Before filing the present petition, the petitioners had filed an appeal under Section 37 of the Arbitration and Conciliation Act, 1996 Act being Arbitration Appeal No.26/2018, challenging the Interim Order dated 14th March, 2018 passed by the Arbitrator.

On 29th May, 2018, on a statement made by the counsel for the respondent that the Final Award dated 2nd May, 2018 has already been passed by the Arbitrator, the said appeal was allowed to be withdrawn with liberty to take appropriate remedies against the Arbitral Award.

The present petition was thereafter filed by the petitioners contending that as the copy of the Arbitral Award has not been received by the petitioner, the petitioner is handicapped inasmuch as,

while it cannot challenge the Award in the absence of a copy of the same, the respondent has taken steps to recover possession of the machinery in terms of the Award.

This Court by an Interim Order dated 6th June, 2018, issued notice on the petition calling upon the respondent to show that the copy of the Award had been duly served on the petitioners. The arbitral record was also directed to be filed in these proceedings.

In compliance with the above directions, the respondent has filed a short reply annexing therewith the proof of delivery of the copy of the Award on the petitioners.

Counsel for the petitioners submits that the Award has been served at an address where the petitioner are not residing and possession of which has been given by the petitioners to a tenant more than one and a half year back.

I am unable to agree with the said submission of the counsel for the petitioners. The memo of parties filed with the present petition records the same address of the petitioners on which copy of the Award has been sent to the petitioners by the Arbitrator. Infact, the same address is also mentioned in the affidavit and statement of truth filed in support of the petition.

Clearly, the petitioners have taken a false stand in support of their petition and have obtained an Interim Order on basis of such incorrect statement being made. This itself disentitles the petitioners to grant of any relief in the present petition.

While dismissing the present petition, I impose exemplary cost of Rs.1 lac on the petitioners to be paid 50% to the respondent and

remaining 50% to the Kerala Chief Minister's Distress Relief Fund.

NAVIN CHAWLA, J

SEPTEMBER 13, 2018
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