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

+ LPA 415/2018

UNION OF INDIA

..... Appellant

Through: Mr. V.S.R. Krishna & Mr. A.S.
Dateer, Advocates

versus

CIMMCO LTD & ORS

..... Respondents

Through: Mr. Deepak Biswas & Mr. Karanjot
Singh Mainee, Advocates for
respondent No.1
Mr. P.D. Gupta & Ms. Madhurima,
Advocates for Real Apt Solutions

CORAM:

HON'BLE MR. JUSTICE SANJIV KHANNA

HON'BLE MR. JUSTICE CHANDER SHEKHAR

ORDER

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02.08.2018

CM No.30547/2018

Allowed, subject to all just exceptions.

LPA No.415/2018 & CM Nos.30546 & 30548/2018

This intra court appeal, under Chapter-X of the Letters Patent Appeal, impugns the order dated 28.2.2018 passed in WP(C) No.8143/2014, Real Apt Solutions v. Union of India & Ors and WP(C) No.4805/2015, M/s. Shatabdi Sales Pvt. Ltd. v. Union of India & Ors.. The order under challenge reads as under:

“Pleadings are complete.

On the last date of hearing, an affidavit was directed to be filed by the respondent Nos. 1 and 2 with regard to the fact that the subject matter of the instant petitions is also forming part of the arbitral proceedings pending inter se between the respondent No.4 and the Railways (respondent Nos. 1 and 2).

Mr.Krishna, learned counsel appearing for the respondent Nos. 1 and 2 concedes to the fact that the arbitral proceedings pending before the learned Arbitrator is pursuant to an order of the Supreme Court, which is not there in the case in hand. Mr.Krishna states, as an identical issue is pending consideration before the learned Arbitrator, the present proceedings be deferred.

Suffice to state even though, the proceeding before the learned Arbitrator arises from the same nature of transaction but the fact is, there is no arbitration clause nor any reference is made by any Court to arbitration. This matter needs to be heard by this Court only.

Renotify on July 9, 2018.”

Learned counsel for the appellant states and claims that there is an arbitration clause between the appellant and CIMMCO Ltd. However, he accepts that Real Apt Solutions and Development Credit Bank are not parties and signatories to the arbitration clause. This being the position, the appellant cannot, without the consent of Real Apt Solutions or the Development Credit Bank compel them to go

for arbitration. However, the appellant may have a right to invoke the arbitration clause and take recourse to arbitration clause against CIMMCO Ltd.

According to us, the impugned order does not decide any controversy or issue, once the aforesaid principle of law is accepted.

We are therefore not inclined to issue notice in the present appeal and also application seeking condonation of delay of 68 days in filing the appeal. Consequently, the appeal and the applications for condonation of delay would be treated as dismissed. We clarify that we have not commented on merits. All pending applications are also disposed of in the above terms.

SANJIV KHANNA, J

CHANDER SHEKHAR, J

AUGUST 02, 2018

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