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IN THE HIGH COURT OF DELHI AT NEW DELHI

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O.M.P. (COMM) 341/2018

SUNIL SOOD

..... Petitioner

Through

Mr.Abhishek Anand and Mr.Anant
A.Pavgi, Advs.

versus

HOMELAND BUILDWELL PRIVATE LIMITED Respondent

Through

Mr.Akhil Sachar and Ms.Sunanda
Tulayal, Advs.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

ORDER

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13.08.2018

This petition has been filed by the petitioner challenging the Order dated 13.07.2018 passed by the Sole Arbitrator whereby the Arbitrator has dismissed the joint application filed by the parties praying for passing of an additional Award in the following terms:

“a) Passed an Order directing Mr.Hemant Jundal, Respondent No.2 in CARBC No.3 of 2017 and M/s Homeland Buildwell Pvt. Ltd. (Respondent No.1 in CARBC No.3 of 2017) and all their present/former/future Directors, Shareholders, Employees, Agents, Associates and family members of all these persons are hereby restrained from using/misusing the blank signed cheques of Mr.Sunil Sood, Respondent as detailed in Annexure P-6 attached with the Order dated 26.07.2017 and the aforementioned persons are further restrained from filing and/or pursuing any legal proceedings (including proceedings under the Negotiable Instrument Act) against Mr.Sunil Sood in any forum in respect of any of the cheque mentioned in Annexure P-6

attached with the Order dated 26.07.2017, and any such proceedings (s) either already filed and/or to be filed in future by any of these persons shall be null and void in the eyes of law and the same shall be liable to be stayed/dismissed/withdrawn and shall be of no consequence.”

The Sole Arbitrator, by the Impugned Order has dismissed the application *inter-alia* on the ground that the relief which has been sought by the application was neither set up by the petitioner herein in the Statement of Defence or as a Counter Claim nor was it a part of the compromise arrived at between the parties.

Learned counsel for the petitioner submits that this prayer had been inadvertently missed out in the Statement of Defence and Counter Claim filed by the petitioner before the Arbitrator as also in the settlement, the disputes between the parties was alive and in fact forms a part of the petition filed under Section 9 of the Arbitration and Conciliation Act, 1996 by the petitioner before the High Court of Himachal Pradesh at Shimla being CARBC No.3/2017. The Hon’ble High Court had by orders dated 26.07.2017 and 21.09.2017 passed an interim order of protection in favour of the petitioner with regard to the cheques in question.

Learned counsel for the respondent, who appears on advance notice, submits that the respondent has no objection if the prayer made in the petition is granted and the Award is modified.

Having heard the learned counsels for the parties and with the consent of the parties, the Award dated 22.05.2018 is modified to the limited extent that the respondent is restrained from using/misusing the alleged blank signed cheques of the petitioner as mentioned in page 10 to 12 of the

documents annexed with the petition. The respondent is further restrained from filing and/or pursuing any legal proceedings (including the proceedings under Negotiable Instrument Act, 1881) against the petitioner based on the abovementioned cheques.

The petition is allowed in the above terms, with no order as to cost.

Dasti.

NAVIN CHAWLA, J

AUGUST 13, 2018/Arya