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

+ **FAO(OS) (COMM) 169/2018**

SPLENDOR BUILDWELL PVT LTD & ANR Appellants
Through: Mr Anirudh Bakhru and Ms Mehak
Tanwar, Advs

versus

MACHINE TOOLS (INDIA) PVT LTD Respondent
Through: Nemo

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

ORDER

% **07.08.2018**

CM No. 31523/2018 (exemption)

Exemption is allowed subject to all just exceptions.

Application stands disposed of.

CM No. 31524/2018 (delay)

The delay of 3 days in filing the present appeal is condoned.

The application stands disposed of.

FAO(OS) (COMM) 169/2018

The objections filed by the appellants herein to the award dated 10.11.2017 stands dismissed while relying on section 34(5) of the Arbitration and Conciliation Act, 1996.

In view of the judgment rendered by the Supreme Court of India in the case of **The State of Bihar & Ors vs. Bihar Rajya Bhumi Vikas Bank Samiti**, C.A. No. 7314/2018 decided on 30.07.2018, wherein it has been categorically held that section 34(5) is not a mandatory provision but directory in nature, the impugned order dated 29.05.2018 is liable to be set aside.

We may note that an identical appeal was listed before this Court on 06.08.2018, which was filed by the respondent herein and an identical order was passed at his instance. Hence, we find that there is no requirement of issuing notice in the matter.

Accordingly, the matter is remanded to the learned Single Judge for hearing on merits. Parties to appear before the learned Single Judge on 06.09.2018, the date already fixed in FAO(OS) (COMM) 152/2018.

The present appeal and all pending applications are disposed of.

G.S.SISTANI, J

SANGITA DHINGRA SEHGAL, J

AUGUST 07, 2018
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