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

\+ O.M.P.(I) (COMM.) 242/2017 & IA Nos.7246/2017 & 1597/2018

PEC LIMITED ..... Petitioner

Through: Mr Rajesh Kumar and Mr Aakash Sehrawat, Advocates.

versus

MAA TARINI INDUSTRIES LIMITED AND ORS. ..... Respondents

Through: Mr Akhil P. Chhbra and Ms Ritu Chhabra, Advocates.

CORAM:
HON'BLE MR. JUSTICE VIBHU BAKHRU

O R D E R

% **22.02.2018**

1. The petitioner has filed the present petition under Section 9 of the Arbitration and Conciliation Act, 1996 (hereafter 'the Act'), *inter alia,* seeking interim measures of protection. The petition was moved on 04.07.2017. On that date a statement was made on behalf of the respondents that the State Bank of India had taken possession of all the stocks and, therefore, there was no possibility of respondent no.1 alienating, transferring or dealing with the iron ore, which was pledged to the petitioner.

2. It is seen that more than six months have elapsed since the present petition was moved and the Arbitral Tribunal has not been constituted as yet.

3. This Court is informed that the petitioner has also black listed the respondents. This action of the petitioner has been impugned by the respondents by way of writ petitions being W.P.(C) 7031/2017 & W.P.(C)

7121/2017. It is stated that the said petitions were taken up for hearing on 12.02.2018 by a Co-ordinate Bench of this Court and the following order was passed:-

> "1. Mr. Kumar, who appears for the respondent says that undoubtedly stocks worth approximately Rs.20 crores which comprises of iron and steel were pledged with the respondent. Mr. Kumar, however, seeks short accommodation to have the same valued and, thereafter, sold.
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> 2. Counsel for the petitioners submits that this very query was raised in Section 9 petition filed by the respondent under the Arbitration and Conciliation Act, 1996.
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> 3. Accordingly, let the valuation be done within 10 days from today.
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> 3(1) Valuers' report will be placed before the Court.
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> 3(2) Furthermore, counsel for the petitioners says that they have been paying insurance premium qua the very same stock and that the value put on the stock by the insurer should also be placed on record. Mr. Kumar says that he will do the needful.
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> 4. Counsel for the petitioners also submits that the petitioners would have no difficulty in the respondent selling the stock and adjusting the same against the outstanding amounts payable by the petitioners to the respondent.
>
> 5. I may also indicate that Mr. Kumar has also offered to make the statement before me that the impugned communication, whereby, petitioner No. 1 has been blacklisted, will not be circulated to any other organisation or entity. The said statement is taken on record.
>
> 6. Renotify the matter on 8.3.2018."

4. It is apparent form the above that the matter regarding valuation and sale of stocks is being considered by the Court in those petitions. Further as noticed above despite a period of six months, the Arbitral Tribunal has not been constituted. In this view, this Court does not consider it apposite to pass any orders at this stage. Accordingly, the petition is disposed of. All the pending applications are also disposed of.

5. Needless to state that it would be open for the petitioner to take effective steps for constitution of the Arbitral Tribunal. It is further clarified that nothing stated in this order will preclude the petitioner from seeking appropriate orders for interim measures of protection under Section 17 of the Act as and when the Arbitral Tribunal is constituted.

6. Order *dasti*.

VIBHU BAKHRU, J

FEBRUARY 22, 2018
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