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

+ OMP (ENF.) (COMM.) 111/2018

M.V. ENTERPRISES

..... Petitioner

Through: Mr. Sameer Nandwani with Mr.
Junaidullah and Ms. Smritee Relhan,
Advs.

versus

NATIONAL INSURANCE CO. LTD

..... Respondent

Through: Mr. Madan Gera, Adv.

+ O.M.P. (COMM) 330/2017 & I.A. No.10138/2017, 7254/2018

NATIONAL INSURANCE CO LTD

..... Petitioner

Through: Mr. Madan Gera, Adv.

versus

M V ENTERPRISES

..... Respondent

Through: Mr. Sameer Nandwani with Mr.
Junaidullah and Ms. Smritee Relhan,
Advs.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

ORDER

24.07.2018

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1. Mr. Gera, who, appears for the petitioner in OMP (COMM) No.330/2017 i.e., National Insurance Co. Ltd., says that he has received instructions to withdraw the said petition filed under Section 34 of the Arbitration and Conciliation Act, 1996 (hereafter referred to as '1996 Act'), *albeit*, with a caveat. The caveat being that since, the Central Bureau of

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Investigation (CBI), is presently carrying on investigations *qua* M.V. Enterprises, and those investigations may culminate in a conviction or adverse findings then, in such an eventuality National Insurance Co. Ltd. should have liberty to recover the money paid to M.V. Enterprises under the award in a manner known to law.

2. Mr. Nandwani, who, appears for M.V. Enterprises, says that he has no instructions as to whether or not any investigations are being carried on *vis-a-vis* his client.

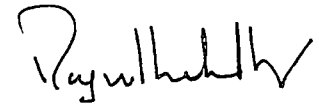
2.1 Furthermore, Mr. Nandwani says that if any action is instituted by National Insurance Co. Ltd. to seek recovery of money that may be released in favour of M.V. Enterprises pursuant to the award dated 5.4.2017, M.V. Enterprises should have the liberty to defend the same in accordance with law.

3. Given the submissions advanced before me, in these circumstances, as prayed for by Mr. Gera, OMP (COMM) No.330/2017 shall stand dismissed as withdrawn, subject to National Insurance Co. Ltd. having liberty to file an action to recover the amount paid to M.V. Enterprises, if investigations said to be carried on by the CBI lead to the conviction of the accused or return of adverse findings by a competent court. The liberty given will be subject to the right of M.V. Enterprises to set up every defence that may be available to it in law.

4. Consequently, the money deposited by National Insurance Co. Ltd., pursuant to the order dated 8.5.2018, passed in OMP (ENF.)(COMM.) No.111/2018, will be released by the Registry along with accrued interest, within a period of one week from today.

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5. The captioned matters are disposed of in terms of the aforementioned directions.
6. Pending applications shall stand closed.
7. *Dasti.*



RAJIV SHAKDHER, J

JULY 24, 2018/pmc

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