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

+ EFA(OS) 1/2018

TAURANT PROJECTS LTD Appellant

Through: Mr.Raman Gandhi, Ms.Parneet
Singh, Advocates

versus

NATIONAL BUILDING CONSTRUCTION
CORPORATION LTD & ANR

..... Respondents
Through: Mr. Manoj K. Das, Adv. for R1

CORAM:

HON'BLE MR. JUSTICE SANJIV KHANNA

HON'BLE MR. JUSTICE CHANDER SHEKHAR

ORDER

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06.02.2018

CM No.2953/2018

Exemption allowed, subject to all just exceptions.

EFA(OS) 1/2018 & CM Nos.2952/2018 & 2954/2018

Taurant Projects Limited has filed the present intra-Court appeal impugning order dated 15th March, 2017 passed by the single Judge in Execution Petition No.250/2015.

2. Counsel for the appellant submits that the appellant wants to invoke arbitration clause and therefore the observations made in the impugned order may be set aside or it should be clarified that these observations would not come in the way of the appellant in the arbitration proceedings.

3. The appellant herein had earlier filed CS(OS) No.1228/2010 against National Building Construction Corporation Ltd. and Ambala Municipal Corporation. Subsequently, the parties entered into a settlement agreement dated 15th February, 2011 which was recorded by the Delhi High Court Mediation and Conciliation Centre. The settlement agreement had stipulated that in order to comply with the directions of the Haryana State Pollution Control Board for grant of no objection certificate, process had been initiated by Ambala Municipal Corporation to obtain 'consent to operate'.

4. The appellant thereafter filed execution petition with a prayer that the judgment debtors should be directed to get appropriate Pollution Control Board clearance and comply with the terms of the settlement agreement dated 15th February, 2011. The second prayer was to direct Ambala Municipal Corporation to take steps to maintain land fill site.

5. The judgment debtors who are the respondents before us had filed their reply controverting the submissions made by the appellant. It was stated that the Haryana Pollution Control Board had granted 'consent to operate' for the period 6th April, 2015 to 5th July, 2015 for trial production. The finding of the single Judge is, and the same is not disputed, that the appellant did not carry out trial production during the period 6th April, 2015 to 5th July, 2015. In these circumstances, it has been held that there was due compliance of the terms of settlement.

6. We do not see any reason or ground to interfere with the impugned order in view of the admission by the appellant that the aforesaid 'consent to operate' was valid during the period 6th April, 2015 to 5th July, 2015. The appellant did not take advantage and undertake trial production. The appeal

therefore does not have any merit and is accordingly dismissed.

7. In these circumstances, we are not inclined to issue notice on the applications seeking condonation of delay in filing and re-filing of the appeal. Accordingly, the said applications would be treated as dismissed.

SANJIV KHANNA, J.

CHANDER SHEKHAR, J.

FEBRUARY 06, 2018
Pk/VKR