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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS COMMERCIAL DIVISION

COMMERCIAL ARBITRATION PETITION (L.) NO.1590 OF 2018

Affinity Beauty Salon Pvt.Ltd. ..Petitioner
Vs.
Wella India Pvt. Ltd. & Anr. ..Respondents

Mr.Zal Andhyarujina with Ashish Pyasi, Parag Khaitan & Umang Thakar i/b. Dhir & Dhir Asso., for the Petitioner.
Mr.D.D.Madon, Senior Advocate with Rohan Cama, Sandhya Iyer & Naina Agrawal i/b. Vaish Asso., for Respondent No.1.
Dr.Birendra Saraf with Anisha Balse i/b. Parikshit Desai, for Respondent No.2.

CORAM : G.S. KULKARNI, J.

DATE : 31st JANUARY, 2019

P.C.:

On the background of the petitioner having previously approached the Delhi High Court in proceedings of a suit which came to be disposed of by an order dated 29 December 2018 passed by the learned Single Judge of the Delhi High Court, holding that the Delhi High Court would not have territorial jurisdiction to entertain the suit, the present proceedings are filed in this Court. The Delhi High Court on 29 November 2018 had also passed the following order in regard to the amounts under the bank guarantee:-

> " The Bank Guarantees, which are subject matter of the present suit, are for a total amount of Rs.24,50,00,000/-. Since, vide a separate order passed today, the plaint is being returned, Kotak Mahindra Bank shall encash the Bank Guarantees and keep the same in a fixed deposit

> initially for a period of three weeks. The said amount shall be retained by the Bank in a fixed deposit and shall be, subject to any orders that may be passed by a competent court. If after three weeks no order is produced by the Plaintiff to the Bank, the same shall be released to Defendant No.2."

2. Thereafter this petition was heard on 18 December 2018 when the Court passed the following order:-

> "3. Considering the above conspectus and more particularly the order dated 14 December 2018 passed by the National Company Law Tribunal, in my opinion, it would be in the interest of justice that at this stage the interim protection granted by the Delhi High Court is extended for a further period upto 22 December 2018. Ordered accordingly."

3. This Court thereafter continued the said ad-interim protection in terms of the order passed by Delhi High Court which is in operation till date. In the meantime, this Court on 16 January 2019 the parties were extensively heard and a detailed order was passed in regard to the documents on the basis of which reliefs were sought by the petitioner.

4. On the aforesaid background, this petition was heard by the Court on 30 January 2019 and thereafter it was heard today in the first session.

5. In the second session, Mr.Andhyarujina, learned Counsel for the petitioner on instructions, seeks leave to withdraw this petition with liberty to file such proceedings as permissible in law.

6. Mr.Madon, learned Senior Counsel for the respondent No.1, in the facts and circumstances of the case, has objected to the conditional withdrawal of the petition.

7. In my opinion, the petition is required to be permitted to be withdrawn as prayed by Mr.Andhyarujina. Ordered accordingly.

8. It is clarified that the ad-interim protection as granted by the order dated 18 December 2018 passed by this Court and continued till date, stands vacated and the consequence which is created by such ad-interim protection shall no more be available to the petitioner.

9. If the respondents have any claim for interest on the amount which is lying with the bank, they are free to pursue such appropriate proceedings as permissible in law.

10. Disposed of accordingly. No costs.

[G.S. KULKARNI, J.]