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

+ **EFA(OS) (COMM) 16/2019**

RASHMI GUPTA & ORS

..... Appellants

Through: Mr. Harish Malhotra, Senior
Advocate with Mr. Vijay K. Singh, Ms. Vijaya
Singh and Ms. Kanishka Prasad, Advocates

versus

NATIONAL SPOT EXCHANGE LTD & ORS Respondents

Through: Mr. Sudhanshu Batra, Senior
Advocate with Mr. Ranjan Kumar Pandey, Mr.
Sandeep Bisht, Mr. Anuj Tiwari, Mr. Shikhar
Shrivastava, Mr. Vishwanathan Iyer and Mr.
Aditya Mishra, Advocates for respondent
No.1/NSEL

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

HON'BLE MS. JUSTICE ASHA MENON

ORDER

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24.10.2019

CAV.1078/2019

Since appearance is entered on behalf of the respondent/Caveator, the
caveat stands discharged.

C.M.Appln.46960/2019 (Exemption)

Allowed subject to all just exceptions.

EFA(OS) (COMM) 16/2019, C.M. APPL.46959/2019 (stay)

1. The appellant No.1 (respondent No.4), the appellant No.2 (respondent
No.5) and the appellant No.3 (respondent No.6) are aggrieved by an interim
order dated 27.09.2019, passed by the learned Single Judge in OMP

(ENF.)(COMM.) 13/2019, whereunder they have been directed not to dispose of, alienate and encumber either directly, or indirectly or otherwise part with the possession of any assets to the tune of the award amount except in the ordinary course of business. The next date fixed in the captioned OMP is 21.11.2019.

2. Mr. Sudhanshu Batra, learned Senior Advocate appearing for the respondent No.1/NSEL, challenges the maintainability of the present appeal at the outset on the ground that the same is not maintainable under Section 37 of the Arbitration and Conciliation Act, 1996 or Section 10 of the Delhi High Court Act. On merits, he draws our attention to an application moved by the respondent No.1/NSEL (I.A. No.617/2019), Decree Holder in the Execution Petition, that had been mentioned and got listed before the learned Single Judge in the morning on 27.09.2019, the date on which the impugned order was passed. He states that a request was made to the learned Single Judge seeking permission to list the captioned application for hearing on the same date, which was duly allowed and advance copies of the said application were also furnished to the non-applicants/appellants, a day in advance.

3. It is the submission of the learned Senior Advocate appearing for the respondent No.1/NSEL that the appellants herein have not given unencumbered security of 500 acres of land, situated at Bikaner, Rajasthan, as detailed in Clause 2.3.1 of the Settlement Agreement dated 30.10.2013, which has compelled the respondent No.1/NSEL to file the captioned application for injuncting the appellants and other judgment debtors from creating any third party rights in their personal properties.

4. Mr. Malhotra, learned Senior Advocate appearing for the appellants disputes the submission made by the other side that I.A.No.617/2019, was taken up for consideration by the learned Single Judge on 27.09.2019. He states that if that was so, then the said application ought to have been reflected in the order dated 27.09.2019, which has mentioned several other pending applications. He also disputes the submission made by the other side that the appellants have encumbered the captioned parcel of land, as alleged. However, he states that as the next date of hearing fixed in OMP (ENF.)(COMM.) 13/2019 is 21.11.2019, the appellants do not wish to press the present appeal. Instead, they shall file a reply to I.A.No.617/2019, at the earliest, so that the said application can be taken up for hearing on the next date.

5. Reply to I.A.No.617/2019 shall be filed by the appellants on or before 08.11.2019. Rejoinder thereto may be filed by the respondent No.1/Decree Holder on or before 20.11.2019. The said application shall be considered by the learned Single Judge on the date fixed and appropriate orders passed.

6. The present appeal is disposed of alongwith the pending application.

HIMA KOHLI, J

ASHA MENON, J

OCTOBER 24, 2019

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