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

+ **W.P.(C) 5672/2019**

TANGIRALA SRINIVASA GANGADHARA
BALADIYA

..... Petitioner

Through Mr R.K. Sharma and Mr P.V.R. Rao,
Advocates.

versus

SH. SANJAY AGGARWAL AND ANR.

..... Respondents

Through

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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22.05.2019

CM APPL. 24869/2019

1. Allowed, subject to all just exceptions.
2. The application is disposed of.

W.P.(C) 5672/2019 & CM APPL. 24868/2019

3. The petitioner has filed the present petition, *inter alia*, praying as under:-

“a. Issue a Writ of Mandamus or any other appropriate writ and declare the Sole Arbitrator /Respondent No. 1 has no jurisdiction over the Petitioner in BMW/RB-5061/LOT-83/14;

b. Consequently set aside the order dated 08.04.2019 of Sole Arbitrator/Respondent No. 1 in BMW/RB-5061/LOT-83/14 as illegal and without jurisdiction.”

4. The petitioner is, essentially, aggrieved by the decision of respondent no.1 (who was appointed as the Sole Arbitrator) rejecting the petitioner's

application filed under Section 16 of the Arbitration and Conciliation Act, 1996 (hereafter 'the A&C Act'). According to the petitioner, there is no arbitration agreement between the petitioner and respondent no.2 and therefore, the sole arbitrator has no jurisdiction to entertain any claim against the petitioner. It is stated that the arbitration agreement (arbitration clause) exists only between the respondent nos. 2 and one Sh Chandra Shekhar Varanasi (Borrower), however, the petitioner has also been roped in the claim made by respondent no.2.

5. The learned counsel appearing for the petitioner states that the order dated 08.04.2019 passed by the sole arbitrator disposing the petitioner's application under Section 16 of the A&C Act is not an appealable order and therefore, constitutes *res judicata* between the parties.

6. The contentions advanced by the petitioner are fundamentally flawed. It is trite law that in the event an application under Section 16 of the A&C Act is rejected, the aggrieved party would have to await the delivery of the award and only then avail of remedies under Section 34 of the A&C Act. It is also well settled that a writ petition would not lie in respect of arbitral proceedings, as the mandate of Section 5 of the A&C Act is clear. No interference in the arbitral proceedings is permissible except to the extent as provided under the A&C Act.

7. In view of the above, the present petition is dismissed. The pending application also stands disposed of.

VIBHU BAKHRU, J

MAY 22, 2019

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