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

+ **FAO(OS) (COMM) 150/2019**

GVK AIRPORT HOLDINGS LIMITED

..... Appellant

Through: Dr.Abhishek Manu Singhvi, Senior Advocate, Mr.Sandeep Sethi, Senior Advocate with Ms.Ruby Singh Ahuja, Mr.Kartik Nayar, Mr.Sathak Malhotra, Mr.Rishab Kumar, Mr. Vishal Gehrana, Ms. Ashwati Balraj, Mr.Anmol Jassal, Advocates.

versus

BID SERVICES DIVISION (MAURITIUS) LIMITED & ORS

..... Respondents

Through: Mr.Amit Sibal, Senior Advocate, with Mr.Saurabh Kirpal, Mr.V.P.Singh, Mr.Arvind Ramesh Ms.Roopali Singh, Ms.Nafisa Khandeparkar, Ms.Muqueet Dabru, Ms.Ansheela Loroia, Ms. Bhargavi Kannan, Mr.Nadhav, Advocates for R-1. Mr. Kaustubh Prakash, Advocate for R-2. Mr.Abhinav Vashisht, Senior Advocate with Mr.Digvijay Rai, Mr.Aman Yadav, Ms.Akshita Sachdeva, Advocates for R-3 with Mr. Raj Kumar Khangwal, GM(Law and Mr.Gagan Kochar, Manager (Law) AAI.

CORAM:
JUSTICE S.MURALIDHAR
JUSTICE TALWANT SINGH

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ORDER
05.07.2019

Caveat 660/2019

1. Since the learned counsel for the Respondents have put in appearance, the caveat is discharged.

C.M.No.29678-80/2019 (exemptions)

2. Allowed, subject to all just exceptions.

FAO (OS) (COMM) 150/2019 and C.M.No.29681/2019 (Stay)

3. The present appeal is directed against an order dated 1st July, 2019 passed by the learned Single Judge dismissing Appellant's OMP (I) (COMM) 96/2019 filed under Section 9 of the Arbitration and Conciliation Act, 1996 (Act). In the impugned order, the learned Single Judge has declined to grant interim relief to the Appellant to restrain Respondent No. 1 from proceeding to offer its 13.5% share holding in Mumbai International Airport Ltd. (MIAL) to any party other than the Appellant.

4. During the pendency of the aforementioned petition i.e. OMP (I) (COMM) 96/2019 before the learned Single Judge, the parties nominated their respective Arbitrators by acting on the arbitration clause in the share holders agreement entered into between them and a three member Arbitral Tribunal (AT) is now in place. The Court is informed that the A.T. is to meet on 9th July, 2019.

5. In that view of the matter, this Court would not like to deal with merits of

the respective contentions of the parties before this Court which it should be noted includes R-1 the Bid Services Division (Mauritius) Ltd., R-2 Acsa Global Limited and R-3 Airport Authority of India (AAI). The Court notices that the learned Single Judge has while discussing the merits of the issues raised stressed that his findings thereon are only ‘prima facie in nature’. In fact in Para 58 of the impugned order, the learned Single Judge has observed as under:-

“58. The opinion expressed by the Court is only a prima facie view. Needless to say that the same shall not be binding on the Arbitral Tribunal and contentions of the parties and merits of the claims and/or counterclaims shall be examined uninfluenced by the observations made in the this judgment.”

6. In that view of the matter while permitting the Appellant and the other parties, if they choose to, to file an application under Section 17 of the Act before the AT for appropriate interim reliefs in accordance with law, this Court reiterates the above observations of the learned Single Judge. The AT will endeavour to take up the application under Section 17 of the Act, if filed before 9th July, 2019 on that date itself and decide the said application as expeditiously as possible.

7. Mr. Sandeep Sethi, learned senior counsel expresses an apprehension that between today and 9th July, 2019 no precipitate action may be taken by the AAI to which an offer has been made by Respondent No. 1 for purchase of its 13.5% shareholding in MIAL. Mr. Abhinav Vasisht, learned Senior counsel appearing for AAI, on instructions states that between today and 9th

July, 2019 no decision either to accept or reject the offer of Respondent No.1 can possibly be taken by the AAI in view of the procedural requirements to be met for the purpose of the said decision.

8. In that view of the matter while taking the above statement on record, this Court does not consider it necessary to issue any specific direction in that regard.

9. The appeal and the pending application are disposed of in the above terms.

10. Copy of the order be given *Dasti*, under the signatures of Court Master.

S. MURALIDHAR, J.

TALWANT SINGH, J.

JULY 05, 2019

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