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

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**Date of decision: 10.01.2020**

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O.M.P. (COMM) 439/2019

RAVINDER KAUR SETHI & ANR.

..... Petitioners

Through: Mr. Jaspreet Singh, Advocate

versus

SURINDER KAUR

..... Respondent

Through: Mr. Himanshu Thankur and Mr.  
Manoj Kumar, Advocates

**CORAM:**

**HON'BLE MS. JUSTICE JYOTI SINGH**

**JYOTI SINGH, J. (ORAL)**

**O.M.P. (COMM) 439/2019**

1. The present petition has been filed seeking setting aside of the order dated 28.09.2019 passed by the Arbitrator in the proceedings pending between the parties. The main grievance of the petitioner is that Smt. Surinder Kaur is the main respondent but her son who is her Special Power of Attorney holder is being permitted to lead evidence by the Arbitrator. Reliance is placed on the judgment of the Supreme Court in ***Janaki Vashdeo Bhojwani & Anr. vs. Indusind Bank Ltd. AIR 2005 SC 439.*** Further reliance is placed on the judgment of a coordinate Bench of this

Court in *OMP (COMM) 31/2017*, titled as *M/s Cinevistaas Ltd. Vs. M/s Prasar Bharti* wherein this Court while examining various judgments held that the principle of *Shah Babulal Khimji vs. Jayaben D. Kania & Anr. (1981) 4 SCC 8* will apply to the arbitral proceedings. Learned counsel for the petitioner submits that it is not open to the Attorney of the respondent to give evidence in his capacity as an Attorney.

2. The learned counsel for the respondent who has filed a reply to the petition at the outset submits the present petition is not maintainable as the impugned order is not an 'Award' which can be challenged in a petition, under Section 34 of the Act. Without prejudice to the said objection, he further submits that in any case the Power of Attorney, Sh. Manmeet Singh is not only the Special Power of Attorney holder of Smt. Surinder Kaur, but is also the son of Smt. Surinder Kaur. He submits that his evidence would be in his capacity as a son of Smt. Surinder Kaur as he was privy to most of the transactions relating to the controversy in question and was actually dealing with the property.

3. I have heard the learned counsels for the parties.

4. Since the learned counsel for the respondent has taken a stand that Sh. Manmeet Singh would only depose in the capacity of the son of the respondent, in my opinion this Court need not enter into the question of the maintainability of the petition.

5. With the consent of the parties, the present petition is disposed of. Sh. Manmeet Singh will lead evidence before the Arbitral Tribunal deposing not as a Power of Attorney but in his capacity as the son of the respondent with respect to the transactions or any other issue related to the properties in question.

6. Since the parties have consented, the question of maintainability of the present petition is left open.

7. The petition is disposed of in the aforesaid terms.

**IA No.16643/2019**

In view of the order passed in the petition above, no further orders are required in the present application and the same is accordingly disposed of.

**JYOTI SINGH, J**

**JANUARY 10, 2020**

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