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

+ O.M.P.(I) (COMM.) 354/2019

GANNON DUNKERLEY & CO. LIMITED Petitioner

Through Mr. Ajay Bhargava, Mr. Aseem
Chaturvedi and Ms. Trishala Trivedi,
Advocates.

versus

HSCC (INDIA) LIMITED

..... Respondent

Through Mr. Saurabh Mishra, Mr. Abhishek
Singh and Mr. Samridhi Pal,
Advocates.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

25.02.2020

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Learned counsel for the parties submits that a Co-ordinate Bench of this Court has already appointed an Arbitrator vide order dated 22.01.2020 in Arb.P. 714/2019.

Learned counsel for the petitioner submits that the present petition under Section 9 of Arbitration and Conciliation Act, 1996 ('Act') be treated as petition under Section 17 of the Act and he be given liberty to file the same before the Arbitrator as an application under Section 17 of the Act.

In so far as prayer-(c) is concerned, the same stands satisfied by virtue of the order passed by this Court on 21.10.2019.

Learned counsel for the respondent objects to the present petition being treated as a petition under Section 17 of the Act before the Arbitral Tribunal on the ground that prayer-(b) cannot be granted as an interim relief.

I have heard the learned counsel for the parties. Since the Arbitral Tribunal has been re-constituted, no purpose would be achieved by continuing this petition.

Prayer-(c) stands satisfied in terms of the order dated 21.10.2019 which reads as under:-

(c) A fit and proper person be appointed special officer, or the parties be directed to carry out joint inspection and make inventory of all materials lying at the project site that has been supplied by the petitioner and its approved vendors; or

In so far as prayer-(b) is concerned, the same is as under:-

(b) Alternatively, the respondent be directed to secure the entire amount being a sum of Rs. 35,40,98,409/(Rupees Thirty-Five Crores Forty Lakhs Ninety-Eight Thousand Four Hundred Nine Only);

The petitioner seeks deposit of an amount of Rs. 35,40,98,409/- for securing the amounts claimed in the arbitration proceedings. In my view, it is open to the Arbitrator to consider the said prayer in an application under Section 17 of the Act which is akin to Section 9 of the Act.

The present petition is disposed of directing that the present petition would be treated as pleadings in Section 17 of the Act before the Arbitral Tribunal.

It is open to the Arbitral Tribunal to consider the application on its own merits. This Court has expressed no opinion on the merits of the matter.

Petition is disposed of accordingly.

Dasti.

JYOTI SINGH, J

FEBRUARY 25, 2020

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