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

% Judgment delivered on: 09.01.2020

+ FAO 12/2020 & CM APPL. 311/2020 & 312/2020
CONTINENTAL WAREHOUSING
CORPORATION (NHAVA SEVA) & ANR. Appellants

versus

CONTAINER CORPORATION OF INDIA Respondent

+ FAO 13/2020 & CM APPL. 314/2020 & 315/2020
CONTINENTAL WAREHOUSING
CORPORATION (NHAVA SEVA) & ANR. Appellants

versus

CONTAINER CORPORATION OF INDIA Respondent

Advocates who appeared in this case:

For the Petitioner: Dr. A.M.Singhvi, Mr. Akhil Sibal, Senior
Advocates with Mr. Mayank Mishra, Mr. Ashish
Joshi and Mr. L.Nidhiram Sharma, Advocates.

For the Respondent: Ms. Pinky Anand, Additional Solicitor General with
Mr. Balendu Shekhar, Ms. Snidha Mehra, Mr.
Hemant Arya and Mr. Sumit Tatarwal, Advocates.

CORAM:-

HON'BLE MR JUSTICE SANJEEV SACHDEVA

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

1. Pursuant to order dated 07.01.2020, learned senior counsel

appearing for the appellant as well as the learned ASG appearing for the respondent submit that the interim arrangement arrived at on 07.01.2020 be modified to the limited extent that instead of the question of interim measures being relegated to the District Judge (Commercial Court), the issue of grant of interim measures be relegated to the arbitral tribunal in terms of Section 17 of the Arbitration & Conciliation Act, 1996 (hereinafter referred to as the Act).

2. They further submit that the interim arrangement arrived at on 07.01.2020 be continued till the arbitral tribunal takes up for consideration the said question.

3. Accordingly, order dated 07.01.2020 is modified to the extent that the interim arrangement arrived at therein shall continue till the application of the respondents for grant of interim measures is taken up for consideration by the Arbitral Tribunal.

4. It would be open for the Arbitral Tribunal to modify, vacate or continue the interim arrangement arrived at on 07.01.2020 without being influenced by anything stated in the said order. Said arrangement would also be without prejudice to the rights and contentions of the parties.

5. With the consent of the parties, it is directed that the petition under Section 9 of the Act filed by the respondents pending before the

Court of the District Judge (Commercial Court) is directed to be treated as an application under Section 17 of the Act to be considered by the Arbitral Tribunal. However, respondents would be at liberty to amend the said application and file additional documents, if required, in view of the arrangement arrived at on 07.01.2020.

6. Learned senior counsel for the appellant submit that they are proposing to appoint Mr. Justice R. C. Lahoti, Former Chief Justice of India as their arbitrator and learned ASG submits that the respondents are proposing to appoint Mr. Yudhvir S. Malik, Former Secretary, Ministry of Road Transport and Highways as their arbitrator.

7. They both submit that the necessary appointments would be issued within a period of one week from today.

8. It is directed that in terms of Clause 9(b) of the Contract between the parties, the two arbitrators shall choose the third arbitrator to act as the presiding arbitrator.

9. The appeals are accordingly disposed of in the above terms.

10. Order *Dasti* under the signatures of the Court Master.

SANJEEV SACHDEVA, J

JANUARY 09, 2020

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