

\$~8(original side)

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

+ **ARB. P. 220/2020 & I.As. 5005-5006/2020**

M/S V.K. CONSTRUCTIONS Petitioner

Through: **Mr. Avinash Trivedi, Adv.**

versus

CHIEF ENGINEER (FLYOVER) PWD (GOVT. OF NCT OF DELHI) Respondents

Through: **Mr. Ramesh Singh, Standing Counsel-GNCTD with Ms. Mrinalini Sen, Ms. Kritika Gupta and Mr. Tanmay Yadav, Adv.**

CORAM

HON'BLE MR. JUSTICE C. HARI SHANKAR

ORDER (ORAL)

%

01.07.2020

I.As. 5005-5006/2020 in ARB. P. 220/2020

1. In view of the fact that the present Arbitration Petition is being disposed of, these applications do not survive for consideration.

ARB. P. 220/2020

1. This is an application under Section 11(6) of the Arbitration & Conciliation Act, 1996, for appointment of a Sole Arbitrator.

2. Mr. Ramesh Singh, learned Standing Counsel (Civil)-GNCTD submits that, before filing of the present application, the learned Sole

Arbitrator has been appointed, thereby rendering these proceedings infructuous applying the law laid down by the Supreme Court in *Datar Switchgears Ltd. v Tata Finance Ltd.*¹

3. Mr. Avinash Trivedi, learned Counsel for the petitioner submits that, strictly speaking, the appointment was not prior to filing of the application as the appointment had been made after service of an advance copy, but that he is not opposing the appointment of the arbitrator by the respondent, or the reference of the disputes to the learned Arbitrator.

4. However, Mr. Trivedi submits that, while making the reference, the right of the respondents to amend its counter claims, has been provided for, but there is no corresponding right allowed, to the petitioner, to amend its claims before the learned Sole Arbitrator.

5. It is made clear that the petitioner would be at liberty to apply to the learned Sole Arbitrator, should it choose to amend its claims, and also to take a ground that the respondent has been permitted to amend its counter claims. If any such application is moved, it may be decided by the learned Sole Arbitrator in accordance with law after hearing both sides.

6. With the above directions, this petition is disposed of.

C. HARI SHANKAR, J

JULY 01, 2020

Kr.

¹ (2000) 8SCC 151