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

+ CS(COMM) 1157/2018

SEW INFRASTRUCTURE LIMITED Plaintiff

Through: Mr.Sanjeev Kumar Sharma,
Mr.Rajiv Dalal & Mr.Ajay,
Advocates

versus

MADHYA BHARAT POWER
CORPORATION LIMITED & ANR. Defendants

Through: Mr.Nikhilesh Krishnan, Advocate
for D-1.
Mr.Jai Pratap, Advocate for D-2.

CORAM:
HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

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24.02.2020

I.A. 2603/2020 (exemption)

Exemption allowed, subject to all just exceptions.

The application is disposed of.

I.A. 2602/2020 (joint application by the plaintiff and defendant No.1 under Order XXIII Rule 3 of the CPC)

1. This is a joint application of the plaintiff and defendant No.1 under Order XXIII, Rule 3 of Code of Civil Procedure, 1908 for disposal of the suit and the counter claim filed by defendant No.1 in terms of a settlement between them.

2. The parties were referred to mediation by an order dated 21.11.2019, and the settlement agreement was signed on 29.01.2020. The

terms of the settlement are contained in paragraphs 1 to 15 of the settlement agreement. The agreement is signed by the constituted attorney of the plaintiff and the authorised signatory of defendant No.1, as well as by their counsel and the learned mediator. Copies of the power of attorney, executed by the parties to the agreement in favour of the signatories, have also been annexed. The application is also signed on behalf of the parties and by their learned counsel, and is also supported by affidavits of the signatories.

3. As far as defendant No.2 is concerned, it is mentioned in the application that defendant No.2 is the holding company of defendant No.1 and in view of the terms contained in the settlement agreement between the plaintiff and defendant No.1, the plaintiff has no objection to deletion of defendant No.2 from the array of parties. Defendant No.2 has also filed I.A.5710/2019 for this purpose. In view of the submission of learned counsel for the plaintiff, defendant No.2 is deleted from the array of parties. Learned counsel for the plaintiff will file an amended memo of parties within three days.

4. A counter-claim has also been filed by defendant No.1 alongwith its written statement on 07.01.2019 under Diary No.17023/2019. The Registry is directed to number the same.

5. Learned counsel for the parties submit that the suit and counter claim have been settled between them, and seek a decree in terms of the settlement agreement.

6. Having regard to the materials placed on record and submission of learned counsel for the parties, I do not find any impediment to grant of this request. There will be a decree, as between the plaintiff and

defendant No.1 [now the sole defendant], in terms of the settlement agreement dated 29.01.2020. Decree sheet be prepared accordingly. A copy of the settlement agreement will be annexed to the decree.

7. As the parties have settled their disputes in the course of mediation, they are entitled to refund of court fees paid on the claim as well as the counter claim in terms of Section 16 of the Court Fees Act, 1870. The Registry will issue a certificate in favour of the plaintiff in respect of the court fees paid on the suit, and in favour of defendant No.1 in respect of the court fees paid on the counter claim.

8. The suit and the counter claim, alongwith all pending application(s), stand disposed of in the above terms.

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In terms of order passed in I.A. 2602/2020 above, the suit and all pending application(s) stand disposed of.

The next date fixed, i.e. 16.03.2020, is cancelled.

PRATEEK JALAN, J

FEBRUARY 24, 2020

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