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

Decided on 18th January, 2021

+ **O.M.P.(I) 7/2020**

DALE ROBERT BROWN Petitioner
Through **Mr. Gaurav Gupta and Mr. Thakur Sumit, Advs.**

versus

VEDANTA LIMITED Respondent
Through **Mr. Srivastava, Adv.**

CORAM:
HON'BLE MR. JUSTICE C .HARI SHANKAR

J U D G E M E N T (O R A L)

% 18.01.2021

1. This is a petition under Section 9 of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as "1996 Act"), seeking certain pre-arbitral interim reliefs.

2. The prayer clause, in this petition, read as under:-

“WHEREFORE, it is most respectfully prayed that till the pendency and final disposal of the arbitral proceedings to be initiated by Petitioner and enforcement of award passed therein, this Hon’ble Court may graciously be pleased to:

(i) pass ex-parte ad-interim Order in favour of Petitioner allowing Petitioner and/or his lawful attorney to detain the Laptop which is presently in custody and/or possession of Petitioner/lawful attorney, and shall have significant evidentiary value to establish Petitioner’s claim in the course of

arbitration proceeding,

(ii) direct Respondent company to pay to Petitioner the amounts admitted by Respondent company to be payable, to the extent such amounts stand admitted in the correspondence issued by Respondent company,

(iii) award cost of proceedings in favour of Petitioner and against Respondent company, and/or

(iv) pass such other Order(s) which this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.”

3. During the course of arguments, Mr. Gaurav Gupta, learned counsel for the petitioner, submits that he is restricting his claims, in this petition, to two prayers, viz., firstly, that the laptop, which was given to the petitioner by the respondent, consequent on the petitioner securing employment to the respondent and which is in the custody of the Registrar General of this Court consequent to orders passed in these proceedings, should be permitted to be retained with the Registrar General and should not be returned to the respondent, subject to the arbitral proceedings which have to take place between the parties and, secondly, that the respondent should be directed to release, to the petitioner, amounts which, according to the petitioner, are admittedly due from the respondent, in particular for June and July, 2020, being the last two months of the employment of the petitioner with the respondent.

4. Mr. Srivastav, learned counsel for the respondent, states, on instructions, that the payment due to the petitioner for the months of June and July, 2020 would be handed over to the petitioner within a

period of one month from today.

5. Accordingly, reserving liberty to the petitioner to take up the issue of any additional payment which, according to him, may be due from the respondent in the arbitral proceedings, prayer (ii) in the petition stands disposed of.

6. Apropos prayer (i) in the petition, though there was some debate as to whether any direction, in respect of the laptop, could be passed by this Court in exercise of its jurisdiction under Section 9 of the 1996 Act, Mr. Srivistav, learned counsel for the respondent, fairly agrees to retention of the laptop with the learned Registrar General of this Court, during the pendency of the arbitral proceedings which are yet to commence and subject to the orders, which may be passed in the said proceedings, by the learned Arbitral Tribunal.

7. The petitioner submits that he is more concerned with the evidence contained in the laptop, rather than the laptop itself, as the said evidence would be needed to establish and in order to support the case of the petitioner in the arbitral proceedings. To a suggestion from the Court, he submits that, in case any occasion to access the information contained in the laptop arises during the arbitral proceedings, the petitioner would move an appropriate application before the learned Arbitral Tribunal under Section 17 of the 1996 Act, whereupon the Arbitral Tribunal would take a decision, after hearing the respondent, as to whether to permit access to the laptop and any material contained therein, for the petitioner to establish his case.

8. This Court has not examined the material in the laptop and does not venture to return any finding regarding the necessity thereof, in order for the petitioner to prove his case in arbitral proceedings. Suffice it to state that petitioner would be at liberty to move an appropriate application, under Section 17 of the 1996 Act, before the Arbitral Tribunal, should the petitioner seek recourse to any materials contained in the laptop, and it would be for the Arbitral Tribunal to take a decision thereon, after hearing the respondent in that regard. Access, of the petitioner, to the laptop, which is presently in the custody of the learned Registrar General, would, therefore, abide by the decision to be taken by the learned Arbitral Tribunal in that regard.

9. With the aforesaid directions, this petition stands disposed of.

Crl. M.A. 13301/2020

1. In view of the order passed in the petition, this application is disposed of.

C.HARI SHANKAR, J

JANUARY 18, 2021

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