

\$~31(2021)

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

% *Decision delivered on: 25.11.2021*

+ **CM No.40168/2021 in
FAO(OS) (COMM) 133/2021 & CM Nos.36463-64/2021**

**DIMECO THROUGH ITS INDIAN
AGENT KRITI INTER TRADE**

..... Appellant

Through : Mr. Rakesh Tiku, Sr. Adv. with Mr.
N.L. Ganapathi and Mr. Sidhant
Garg, Advs.

versus

**CENTRAL ORGANISATION FOR MODERNIZATION
OF WORKSHOPS THROUGH CONTROLLER OF
STORES & ANR.**

..... Respondents

Through : Mr. Chandra Shekhar, Adv. for
COFMOW along with Mr Hakim
Singh Senger, Dy. CMM.
Mr. Rajan Sabharwal and Mr. Raghav
Sabharwal, Advs. For R-2.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

HON'BLE MR. JUSTICE TALWANT SINGH

[Physical Hearing/Hybrid Hearing (as per request)]

RAJIV SHAKDHER, J. (ORAL):

CM No.40168/2021

1. The substantial prayers made in the application are as follows :

"I. grant an interim injunction restraining Respondent No. 1 from invoking / encashing the Bank Guarantee bearing No.0479111FG0000505 dated 30.09.2011 for € 169,070 and the Bank Guarantee bearing No.0479111FG0000506 dated 30.09.2011 for Rs.14,42,800/- (Annexure A-3 (Colly.), both issued by the State Bank of India, Overseas Branch, Mumbai, subject to the Appellant keeping the said two Bank Guarantees

alive till conclusion of the arbitration between the Appellant and the Respondents;

II. grant an ex parte ad interim order in terms of prayer clause I above.”

2. Mr. Rakesh Tiku, learned senior counsel, who appears on behalf of the appellant, on instructions of Mr. N.L. Ganapathi, and Mr. Chandra Shekhar, who appears on behalf of respondent no.1, on instructions of Mr. Hakim Singh, Deputy Chief Materials Manager (DCMM), say that the parties have arrived at an agreement with respect to the appointment of an arbitrator.

2.1 They inform us that they have agreed on the appointment of Hon'ble Mr. Justice S.P. Garg, former Judge of this court, as the Arbitrator.

2.2. Mr. Rajan Sabharwal, who appears for respondent no. 2, says that he can have no objection to the appointment of the aforementioned arbitrator.

2.3. The statements made by the counsel for the parties are taken on record.

3. Given this circumstance, Mr. Tiku says that he does not wish to press the prayers made in the above-captioned application before us and that the appellant will move an appropriate application before the learned Arbitrator.

3.1. It is ordered accordingly.

4. The above-captioned application is disposed of in the aforesaid terms.

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5. In view of the order passed in CM No.40168/2021, Mr. Tiku says that nothing survives in the appeal and that the appellant will agitate its rights before the learned Arbitrator.

6. The appeal is, accordingly, closed.

6.1. Therefore, the date already fixed in the matter i.e. 10.12.2021 shall stand cancelled.

7. Consequently, pending applications shall also stand closed.
8. The case papers shall stand consigned to record.

RAJIV SHAKDHER, J

TALWANT SINGH, J

NOVEMBER 25, 2021

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Click here to check corrigendum, if any

