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* IN THE HIGH COURT OF DELHI AT NEW DELHI

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Decision delivered on: 25.08.2022+ **FAO(OS) (COMM) 93/2022 & CM APPL. 20309/2022**

MANOJ GULSHAN AND ANR

..... Appellants

Through: Appellant No.1 in-person.
Mr Rakesh K. Sharma, Adv. for
appellant no.2.

versus

ZEE LEARN LTD

..... Respondent

Through: Mr Bharat Chadha and Mr Rajesh
Jangra, Advs.

CORAM:**HON'BLE MR. JUSTICE RAJIV SHAKDHER****HON'BLE MS. JUSTICE TARA VITASTA GANJU****[Physical Hearing/Hybrid Hearing (as per request)]****RAJIV SHAKDHER, J. (ORAL):**

1. Before we proceed further, we may record that pursuant to this Court's order dated 02.06.2022, whereby Hon'ble Justice Rajiv Sahai Endlaw, former Judge of this Court, was appointed as an Arbitrator in the matter, proceedings before him have commenced.

1.1. Our attention, in this context, has been drawn to the arbitral proceeding order, dated 29.07.2022.

1.2. *Inter alia*, the learned Arbitrator has noted that there has been no appearance before him, on behalf of the respondent.

1.3. The order sheet dated 29.07.2022 shows that the proceedings before the learned Arbitrator have now been fixed on 29.08.2022, at 18:00 hrs.



2. Mr Bharat Chadha, who appears on behalf of the respondent, undertakes before this Court that the respondent shall be represented on the aforementioned date fixed before the learned Arbitrator.

2.1. Furthermore, Mr Chadha has also indicated that the respondent will move an application under Section 17 of the Arbitration and Conciliation Act, 1996 [in short “1996 Act”] for the return of the subject bank guarantee, which is in the custody of this Court.

2.2. We are informed that the subject bank guarantee is valid up until 11.11.2022.

2.3. We are also informed by appellant no.1, who is present in-person, and Mr Rakesh K. Sharma, who appears on behalf of appellant no.2 (although, his appearance on the previous date i.e., 02.06.2022, was recorded for both the appellants), that the appellants have not filed their statements of claim before the learned Arbitrator.

3. Given this position, as agreed by the parties, the appeal is disposed of, based on the following directions:

(i) The parties and/or their authorized representatives will appear before the learned Arbitrator on 29.08.2022 at 18:00 hrs, at the venue indicated, in the order sheet dated 29.07.2022.

(ii) In case, the respondent moves an application under Section 17 of the 1996 Act, for the return of the subject bank guarantee, the learned Arbitrator is requested to hear and dispose of the same, at the earliest, after giving due opportunity to the appellants, to file their response *qua* the same.

(iii) The appellants will also have the liberty to move an application under Section 17 of the 1996 Act, if they choose to do so.

(iv) The statements of claim, replies and counter-claims will be filed, as



per the time schedule fixed by the learned Arbitrator.

4. The interim order dated 27.04.2022 passed by this Court, will continue to operate, albeit, with a caveat that the learned Arbitrator will have the liberty to vary, modify and/or vacate the order after hearing the parties, in support of their respective stands.

4.1. For the sake of clarity, we may indicate that this step may be taken by the learned Arbitrator, even at the stage when an application under Section 17 is moved by the respondent, if otherwise it is deemed fit.

5. Consequently, the impugned order passed by the Learned Single Judge shall stand set aside.

6. Resultantly, pending application shall also stand closed.

(RAJIV SHAKDHER)
JUDGE

(TARA VITASTA GANJU)
JUDGE

AUGUST 25, 2022

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