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

% Judgment delivered on: 03.06.2022

+ **FAO(OS) (COMM) 155/2022 & CM. APPL. 28205-06/2022**

ROADGODS AUTOGEAR PVT. LTD. AND ANR....... Appellant

Versus

M/S GHVH PTE LTD & ORS. ..... Respondent

Advocates who appeared in this case:

For the Appellant: Mr. Ramesh Babu, Ms. Manisha Singh, Mr. Abhai Pandey, Mr. Varun Sharma and Mr. Gautam Kumar, Advocates.

For the Respondents: Ms. Namita Matthew, Advocate for respondent No.1.

Mr. Srinivas Kotni, Advocate for respondent No.3.

CORAM:-
HON'BLE MR. JUSTICE SANJEEV SACHDEVA
HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

1. Appellant impugns order dated 24.05.2022 whereby on an application filed under Section 9 of the Arbitration and Conciliation Act, as an interim measure, the appellant and respondents No.2 and 3 have been restrained from undertaking any acts or business in

furtherance of the Business License Agreement dated 03.03.2022 or dealing in any manner with the assets and properties of the appellant till the next date of hearing.

2. Learned counsel for the appellant submits that because of the impugned order, the entire business and functioning of the appellant has come to a standstill.

3. Learned counsel appearing for respondent No.3 submits that similar effect has happened qua respondent No.3. Learned counsel submits that they have invested about Rs.3.8 crores in the appellant concern and because of the interim protection, they are being put to a great loss. Learned counsel for appellant and respondent No. 3 pray that some interim arrangement be made so that they can continue to operate their business.

4. Learned counsel for respondent No.1 (petitioner before the learned single Judge) under instructions submits that she has no objection in case the appellant and respondent No.3 were permitted to carry on some commercial activity which does not impinge upon the investment agreement of the respondent No.1 with the appellant. She further submits that there are several clauses in Business License Agreement which in effect amount to transferring substantial rights in

appellant to respondent No.3 and can also lead to several litigations between the respondent No.1 and respondent No.3.

5. After some discussion, learned counsel for the parties have agreed to a temporary arrangement for the operation of business of the appellant, subject to further orders to be passed in the Section 9 petition or in the arbitration proceedings, as the case may be. The arrangement agreed upon between the parties is as under:

(i) Respondent No.3 shall be permitted to sell the products in the product line of the appellant as obtaining on the date of the Business License Agreement dated 03.03.2022. Respondent No.3 would also be permitted to manufacture, market and sell the products in the said product line.

(ii) The clauses of the Business License Agreement which permit respondent No.3 to design, manufacture and market fresh products, though under the brand name of the appellant, would not be put into operation till further orders to be passed either in the Section 9 petition or in the arbitration proceedings, as the case may be.

(iii) It would be open to the appellant to design new product line and permit respondent No.3 to manufacture, market and sell the said products, provided the intellectual property rights in the same are not transferred or assigned to respondent No.3.

(iv) The details of the stock handed over by the appellant to respondent No.3 as on 03.03.2022 and thereafter, alongwith details of the stock already sold by respondent No.3 and the unsold stock, plus the stock manufactured and sold alongwith the value of the stock and sales shall be provided to respondent No.1 within 15 days from today.

(v) The details of the contract rights alleged to have been handed over, in terms of the Business License Agreement, shall also be provided to the respondent No.1 within two weeks.

(vi) The monthly statement of profit and loss account alongwith the monthly report of the sales undertaken, its value, bills/invoices of sale, vouchers, agreements, if any, shall be provided to respondent No.1 by the appellant and respondent No.3 on or before the seventh day of each English calendar month for the preceding month.

(vii) Subject to appellant and respondent No.3 complying with the above conditions, respondent No.3 would be at liberty to operate and carry on the business as agreed upon.

6. The appeal is disposed of in the above terms.

7. It is clarified that this Court has neither considered, nor commented upon merits of the contention of either party. The arrangement recorded herein would be without prejudice to the rights and contentions of the parties and subject to further

order/modification, if any, to be done by the learned single Judge in the petition under Section 9 of the Arbitration and Conciliation Act or by the Arbitral Tribunal, as the case may be.

8. At this stage, learned counsel for parties pray that they be also referred to mediation to explore the possibility of an amicable resolution.

9. In view of the above, appellant, respondents No.1 and respondent No.3 are referred to Delhi High Court Mediation and Conciliation Centre. With the consent of parties, Mr. Sudhanshu Batra, Senior Advocate is appointed as the mediator to mediate the disputes between the parties. Parties shall appear before the Mediator on 06.06.2022 at 11 A.M. The report of the mediator shall be furnished and placed before the learned single Judge.

10. Order *dasti* under signature of the Court Master.

SANJEEV SACHDEVA, J.

TUSHAR RAO GEDELA, J.

JUNE 3, 2022
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