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* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ FAO(OS) (COMM) 148/2020 & CM APPL. 29253/2020

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Date of decision : 28.03.2022

JASMINE BUILDMART PVT. LTD.

..... Appellant

Through Ms Bina Gupta, Ms Sheena Taqui, Mr
Dhvanit Chopra and Ms Akansha
Sainz, Advs.

versus

NEERU JAIN

..... Respondent

Through Mr Shashank Garg, Mr Aman Gupta,
Mr Vipul Wadhwa and Ms Nishtha
Jain, Advs.**CORAM:****HON'BLE MR. JUSTICE RAJIV SHAKDHER****HON'BLE MS. JUSTICE POONAM A. BAMBA**

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

RAJIV SHAKDHER, J. (ORAL):-

1. This appeal is directed against the order dated 27.07.2020, passed by the learned Single Judge in IA No.721/2020 in O.M.P. (I) (COMM.) No.280/2019.

1.1. A perusal of the order dated 27.07.2020 would show that there were several other interlocutory applications [IAs] moved, which were also dealt with by the learned Single Judge *via* very same order. Suffice it to state that these applications, including the application adverted to hereinabove i.e., I.A. No.721/2020, were applications moved by the original petitioners (including the respondent herein) for clarification/modification of the judgment dated 21.10.2019.

2. The learned Single Judge, *via* judgment dated 21.10.2019, had, in



exercise of powers vested in her under Section 9(1) of the Arbitration and Conciliation Act, 1996 [in short, '1996 Act'], passed an interim order in favour of the respondent i.e., the original petitioner. The interim directions issued by the learned Single Judge, *via* the said judgment, were to remain in place for a period of 90 days, as prescribed under Section 9(2) of the 1996 Act.

2.1. It appears that this direction was issued, based on an understanding by the learned Single Judge, that no steps had been taken for initiation of arbitration proceedings. It is based on this aspect, that applications were moved for clarification/modification of the judgment dated 21.10.2019.

2.2. Based on the facts brought to the notice of the learned Single Judge, the following operative directions were passed by her *via* the impugned order:

"9. Reading Section 9(2) conjointly with Section 21 can lead only to one inevitable conclusion that when the proceedings commence prior to the Court passing an order granting interim relief to a party under Section 9(1) of the Act, provisions of Section 9(2) would have no application. In view of this settled position of law Applications seeking modification deserve to be allowed.

10. Direction of the Court in para 52 of the judgement dated 21.10.2019, whose modification is sought, is as follows :-

"52. Petitioners must take steps for constitution of the Arbitral Tribunal as the present interim order shall remain in operation only for the period as prescribed in 9(2) of the Act....."

11. This direction is deleted and the Judgement dated 21.10.2019 stands modified to this limited extent. Applications are disposed of accordingly."



3. Ms Bina Gupta, who appears for the appellant i.e., the original respondent, says that a further clarification is required as to what would happen with regard to the steps that the appellant [i.e., the original respondent] took while the judgment dated 21.10.2019 was in place i.e., before the impugned order i.e., order dated 27.07.2020 was issued.

3.1. In these circumstances, we are of the view that the appellant should move the learned Single Judge for necessary clarification/modification/review of the order dated 27.07.2020.

3.2. Accordingly, the appeal is disposed of, with liberty to the appellant to move the learned Single Judge with an appropriate application for the purpose articulated hereinabove.

4. The pending application shall, consequently, stand closed.

5. Needless to add, if the application, as indicated above, is moved by the appellant, appropriate orders will be passed by the learned Single Judge after hearing the respondent.

RAJIV SHAKDHER, J

POONAM A. BAMBA, J

MARCH 28, 2022/rb

[Click here to check corrigendum, if any](#)