

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CM-23-FCARB-2023
CM-24-FCARB-2023 &
CM-25-FCARB-2023 in/and
FAO-CARB-7-2023

Date of decision : 20.04.2023

M/s EDAC Engineering Ltd.

.....Petitioner

VERSUS

L&T-MHI Power Boilers Private Ltd.

....Respondents

**CORAM:- HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH
HON'BLE MR. JUSTICE HARPREET SINGH BRAR**

Present: Mr. Jawed Ahmed, Advocate
for the appellant.

Mr. Abhay Gupta, Advocate and
Mr. Vipul Aggarwal, Advocate
for the respondent/Caveator.

AUGUSTINE GEORGE MASIH, J. (ORAL)

CM-23-FCARB-2023

Prayer in this application is for making good the deficiency in
affixing the Court fee of Rs.591/-.

For the reasons stated in the application, the same is allowed.

CM-24-FCARB-2023

Exemption is granted from the filing certified copies of the
annexures appended along with the appeal, subject to all just exceptions.

Application stands disposed of.

FAO-CARB-7-2023

Challenge in this appeal is to the order dated 12.12.2022 passed

by the Presiding Officer, Commercial Court-cum-Additional District Judge, Faridabad, whereby an application under Section 9 of the Arbitration and Conciliation Act, 1996, preferred by the appellant for interim injunction has been declined by the Court below.

Learned counsel for the respondents has brought to the knowledge of the Court that the interim relief, which has been sought by the appellant, has been rendered infructuous as the steps which were sought to be enjoined at the end of the respondents have already been given effect to, firstly with regard to the removal of the plant and machinery as installed by the appellant, as also the fact that a third party contract has been entered into after the cancellation of the contract with the appellant and the said agency is executing the project.

This factual position could not be disputed by the learned counsel for the appellant. He, however, asserted that some interim protection may be granted as far as financial claim of the appellant is concerned as in the arbitration proceedings, the appellant is likely to get some relief, the interest of the appellant should be, therefore, safeguarded.

This contention of the learned counsel for the appellant cannot be accepted at this stage especially in the light of the fact that it is an admitted position that till date, no Arbitrator has been appointed. It may further be added that in case arbitration proceedings are initiated, the Arbitrator would be the best judge to determine the claim, which may be projected by the appellant. The interest in any case of the appellant would be protected in those circumstances. Appellant can also assert his such claim before the Arbitrator as admissible in law.

In view of the above, the present appeal stands disposed of.

CM-25-FCARB-2023

In the light of the disposal of the main appeal, no orders are required to be passed in the present application for stay as the same has been rendered infructuous. Disposed of as such.

(AUGUSTINE GEORGE MASIH)
JUDGE

20.04.2023
Nisha

(HARPREET SINGH BRAR)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether reportable</i>	<i>No</i>