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

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*Date of Decision: 20.09.2023*

+ **EFA(OS) (COMM) 23/2023 & CM APPL. 48944/2023,  
48945/2023 & 48946/2023**

MINISTRY OF RAILWAYS AND ANR ..... Appellants

Through: Mr. Mukul Singh, CGSC with Ms.  
Ira Singh & Ms. Pranjal Mathur,  
Advs.

versus

M/S AMBUJ HOTEL AND REAL  
ESTATE PVT. LTD.

..... Respondent

Through: Mr. S.S. Sisodia, Mr. Saurabh  
Kumar & Ms. Namrata Gupta,  
Advs.

**CORAM:**

**HON'BLE MR. JUSTICE VIBHU BAKHRU**

**HON'BLE MR. JUSTICE TUSHAR RAO GEDELA**

**VIBHU BAKHRU, J.**

1. The appellants have filed the present appeal impugning an order dated 09.08.2023 passed by the learned Single Judge in OMP (ENF.) (COMM) No.240/2022 captioned *Ambuj Hotels and Real Estate Pvt. Ltd. v. Ministry of Railways & Anr.* The respondent had instituted the said proceedings for enforcement of the arbitral award dated 07.07.2022 (hereafter '**the Award**').

2. The appellants had filed an application [OMP (COMM)



No.494/2022 captioned *Ministry of Railway and Anr. v. M/s Ambuj Hotel Real Estate Pvt. Ltd.*] under Section 34 of the Arbitration and Conciliation Act, 1996 (hereafter ‘**the A&C Act**’) for setting aside the Award. The appellants had also moved an application (I.A. No. 21131/2022) under Section 36(2) of the A&C Act in those proceedings seeking interim stay of the Award, however, the appellants failed to secure any interim order for stay of the Award in those proceedings.

3. The appellants have placed on record a common order dated 08.02.2023 passed by the learned Single Judge in OMP (COMM) No.494/2022 and OMP(ENF.) (COMM) No.240/2022. The said order indicates that the appellants were called upon to deposit the entire awarded amount without prejudice to their rights and contentions and the matters were directed to be listed, thereafter, on 23.03.2023. However, the order passed on 23.03.2023 is not on record.

4. Concededly, the appellants had failed to secure an interim order in the proceedings in respect of the appellants’ application under Section 34 of the A&C Act, for setting aside the Award. Thus, the Award was required to be enforced in the proceedings instituted by the respondent under Section 36 of the A&C Act.

5. The appellants had placed an order dated 19.05.2023 passed by the learned Single Judge in OMP(ENF.) (COMM) No.240/2022 which notes that the appellants had deposited a sum of ₹4,38,76,595/- with the Registry of this Court and an application under Section 34 of the A&C Act is pending but there is no stay against the enforcement of the



Award.

6. Clearly, in absence of any order interdicting enforcement of the Award, the learned Single Judge was required to carry the enforcement proceedings, (OMP(ENF.) (COMM) No.240/2022), to its conclusion. Accordingly, the learned Single Judge had directed the release of the entire awarded amount subject to the respondent furnishing an indemnity bond or surety bond with an undertaking, which indicates that in case the appellants prevail in the application under Section 34 of the A&C Act, the respondent shall re-deposit the amount along with interest within four weeks of any such order.

7. The appellants' grievance, essentially, relates to non-grant of a stay of the Award by the learned Single Judge in OMP (COMM) No.494/2022. Although an application for stay of the Arbitral Award was filed but the same has not yet been disposed of. However, the appellants have not preferred an appeal against the order of the learned Single Judge deferring the appellants' application for stay of the Award. The said controversy is not a subject matter of the present appeal.

8. In view of the above, this Court find no ground to interfere with the impugned order. The appeal is, accordingly, disposed of.

9. It is clarified that notwithstanding the appeal has been dismissed, the same would not preclude the appellants from approaching the learned Single Judge for securing an appropriate order in I.A. No.21131/2020 in OMP (COMM) No.494/2022 which is stated to be pending.



10. It is further directed that in the event any interim order is passed in that application, the same would be accorded priority over the impugned order as well as this order. In other words, the directions to release the amounts in terms of the impugned orders would be subject to any interim order passed in those proceedings.

11. The appeal is disposed of with the aforesaid observations.

**VIBHU BAKHRU, J**

**TUSHAR RAO GEDELA, J**

**SEPTEMBER 20, 2023**  
**Ch**