



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

% *Date of decision: May 29, 2023*

+ **FAO(OS) (COMM) 111/2023, CAV 272/2023, CM APPLs.
27394/2023, 27395/2023, 27396/2023 & 27397/2023**

**DR VIDYA SAGAR KAUSHALYA DEVI MEMORIAL HEALTH
CENTRE**

..... Appellant

Through: **Mr. Sandeep Sethi &
Mr. Akshay Makhija, Sr. Adv.
with Mr. Adarsh Chamoli, Adv.**

versus

**NAYATI HEALTHCARE AND RESEARCH NCR PRIVATE
LIMITED**

..... Respondent

Through: **Mr. Parag P. Tripathi and
Mr. Dayan Krishnan, Sr. Adv.
with Mr. Vijay Nair, Mr. Rajat
Jneja and Mr. Anmol Kumar,
Adv.**

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

HON'BLE MR. JUSTICE ANOOP KUMAR MENDIRATTA

V. KAMESWAR RAO, J. (ORAL)

CAV 272/2023

As learned counsel appears for the caveator / respondent,
caveat stands discharged.

CM APPL. 27395/2023

Exemption allowed subject to all just exceptions.

Application stands disposed of.

CM APPL. 27397/2023

This is an application filed by the applicant / appellant
seeking permission to file lengthy list of dates.



For the reasons stated in the application, same is allowed.
Lengthy list of dates are taken on record.

Application stands disposed of.

FAO(OS) (COMM) 111/2023 & CM APPL. No. 27394/2023

1. The challenge in this appeal is to an order dated May 15, 2023 in OMP (I) (COMM) 150/2023 passed by the learned Single Judge, whereby the learned Single Judge while considering the petition filed by the respondent under Section 9 of the Arbitration and Conciliation Act, 1996 ('Act of 1996', for short) has directed, the letter dated May 11, 2023, (which is a letter of termination of the agreement by the appellant) shall be kept in abeyance.
2. We find that next date of hearing before the learned Single Judge is July 31, 2023.
3. Mr. Sandeep Sethi, learned Sr. Counsel appearing for the appellant would submit that the ground on which the learned Single Judge has stayed the termination order is clearly unsustainable and the effect thereof is that the appellant is required to continue the agreement with the respondent. He also submits when the contract is terminable and the appellant having terminated the agreement, the remedy for the respondent is to seek damages.
4. On the other hand, Mr. Parag Tripathi, learned Sr. Counsel appearing for the respondent would contest the submissions made by Mr. Sethi by stating that the learned Single Judge has heard the counsel for the parties at length and by noting in paragraph 10 of



the impugned order that the letter of termination is not in terms of Clause 38 of the Agreement dated April 11, 2015, has by holding that only parties to the agreement may terminate the same, has passed the impugned order. In any case, he submits, that it is the case of the respondent herein that the appellant was required to give a notice to cure the defects before effecting the termination.

5. We say nothing on the submissions made by Mr. Sethi and Mr. Tripathi. Since the matter is pending consideration before the learned Single Judge and the counsel for the parties agree that the date of hearing be advanced, so that the petition can be heard, we deem it appropriate to list the matter before the learned Single Judge on June 1, 2023 by granting one day's time to the appellant herein to file reply to the petition under Section 9 of the Act of 1996 and also time of one day thereafter to the respondent to file rejoinder to the same.

6. Appeal stands disposed of.

CM APPL. 27396/2023

Dismissed as infructuous.

V. KAMESWAR RAO, J

ANOOP KUMAR MENDIRATTA, J

MAY 29, 2023/jg