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Appln.No.3948 of 2024
in OP.No.1115 of 2018

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K. KUMARESH BABU, J.

This application has been filed to withdraw the amount deposited through Demand Draft No.508943 dated 07.01.2019 for a sum of Rs.56,89,565/- lying on the credit of OP.No.1115 of 2018.

2. Pursuant to the order dated 13.12.2018 made in A.No.9660 of 2018, wherein a conditional order of stay was granted that the applicant to deposit 50% of the Award amount. Subsequently, the OP filed under Section 34 of the Arbitration and Conciliation Act was allowed by this Court, by setting aside the Award of the Arbitral Tribunal dated 12.05.2018. As against the said order, the respondent had preferred an Intra Court appeal in OSA.No.306 of 2019, originally an order was passed by the Division Bench of this Court on 17.12.2019, wherein this Court directed that the amount lying in the credit of OP.No.1115 of 2018 shall not be withdrawn and the said OSA was decided by the Division Bench of this Court on 01.07.2024 by dismissing the appeal filed by the respondent herein. In the interregnum, an application was also taken up by the applicant in A.No.9732 of 2019 for withdrawal of the said amount and in view of the interim order passed by the Division Bench of this Court the said application was disposed of granting liberty to the applicant to take out similar



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application depending upon the outcome of OSA.No.306 of 2019.

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3. At this juncture, the intra Court appeal in OSA.No.306 of 2019 was dismissed on 01.07.2024 and now the present application has been filed by the applicant to withdraw the amount that had been deposited by the applicant, pursuant to the interim order dated 13.12.2018 in A.No.9660 of 2018 and prayed this Court to pass appropriate orders permitting the applicant to withdraw the aforesaid deposited amount.

4. Heard the learned counsel for the applicant and perused the materials available on record.

5. It is seen from records, inspite of notice to the respondent, the respondent had entered appearance through a counsel, but the said counsel had filed a memo dated 20.08.2024 indicating that the change of vakalat had been given to the respondent. Recording the said memo, the Registry of this Court was directed to verify any change of vakalat has been filed or otherwise to print the name of the respondent in the cause list.

6. Today, the name of the respondent is printed in the cause list and at the time of hearing there is no representation on behalf of the respondent either



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in person or through any counsel.

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7. Earlier, the applicant made an attempt to withdraw the 50% of the Award amount deposited and this Court by recording the interim order passed in OSA.No.306 of 2019 dismissed the application on 25.07.2023 and granted liberty to the applicant to take out similar application depending upon the outcome of OSA. Thereafter, the Division Bench of this Court dismissed the appeal filed by the respondent in OSA.No.306 of 2019 on 01.07.2024.

8. In view of aforesaid circumstances, I find no impediment to permit the applicant to withdraw the amount that had been deposited before this Court in OP.No.1115 of 2018, pursuant to the conditional order passed staying the operation of the Arbitral Award dated 12.05.2018.

9. In the result, the application is ordered as prayed for.

10.09.2024

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10.09.2024