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

+ O.M.P. (COMM) 11/2023, I.A. 455/2023, I.A. 457/2023

CENTRAL UNIVERSITY OF JHARKHAND Petitioner

Through: Mr. Rajshekhar Rao, Sr. Adv. with
Mr. Vinayak Mehrotra, Ms. Mansi
Sood, Mr. Harshil Wason, Advs.

versus

M/S. KINGS FURNISHING AND SAFE CO. Respondent

Through: Mr. Manish Kaushik, Mr. Ajit Singh
Johee, Ms. Anshita Agarwal, Advs.

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+ O.M.P. (COMM) 12/2023, I.A. 512/2023, I.A. 513/2023

KINGS FURNISHING AND SAFE COMPANY Petitioner

Through: Mr. Manish Kaushik, Mr. Ajit Singh
Johee, Ms. Anshita Agarwal, Advs.

versus

CENTRAL UNIVERSITY OF JHARKHAND Respondent

Through: Mr. Rajshekhar Rao, Sr. Adv. with
Mr. Vinayak Mehrotra, Ms. Mansi
Sood, Mr. Harshil Wason, Advs.

CORAM:

HON'BLE MR. JUSTICE JASMEET SINGH

ORDER
09.04.2024

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1. Since the matters are connected, they are taken up together and disposed of by a common order.
2. In O.M.P. (COMM) 11/2023, the petitioner i.e. Central University of Jharkhand has sought setting aside of the award dated 19.05.2022 rendered



by the learned Sole Arbitrator in case No. DIAC/1785/09/17.

3. O.M.P. (COMM) 12/2023 has been filed by Kings Furnishing and Safe Company (respondent in O.M.P. (COMM) 11/2023) against Central University of Jharkhand (petitioner in O.M.P. (COMM) 11/2023) also seeking setting aside of the award dated 19.05.2022 passed by the learned Sole Arbitrator.

4. Both the learned counsels on instructions have stated that the award dated 19.05.2022 passed by the Sole Arbitrator may be set aside and the parties be remanded for fresh arbitration on the disputes between the parties.

5. The counsels have relied upon the judgment of Supreme Court in ***“Mutha Construction vs. Strategic Brand Solutions (I) Pvt. Ltd.”*** in SLP(Civil) No. 1105/2022 and more particularly paras 2 and 8 which read as under:

“2. The dispute arose between the parties. Both the parties were in arbitration before the learned Sole Arbitrator, a retired Judge of the Bombay High Court. The learned Arbitrator passed an award dated 17.01.2018. Being aggrieved by the award, the petitioner preferred the Commercial Arbitration Petition No.511 of 2018 under Section 34 of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as 'the Act'). By Order dated 30.04.2019, the learned Single Judge by consent set aside the award and remanded the matter to the learned Sole Arbitrator to pass a fresh reasoned award. The petition under Section 34 of the Act therefore was disposed of accordingly.

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8. Therefore, once it is held that the order dated 30.04.2019 was a consent order and the parties agreed to set aside the award and remand the matter to the Sole Arbitrator for a fresh reasoned award, the decisions relied upon by the learned counsel on behalf of the petitioner referred to hereinabove shall not be applicable and/or be of any assistance to the petitioner. The principle of law



laid down by this Court in the aforesaid decisions would be applicable where the Appellate Court decides the application under Section 34 of the Act on merits. It is to be noted that even in a case where the award is set aside under Section 34 of the Act on whatever the grounds which may be available under Section 34 of the Act, in that case the parties can still agree for the fresh arbitration may be by the same arbitrator. In the present case both the parties agreed to set aside the award and to remit the matter to the learned Sole Arbitrator for fresh reasoned Award. Therefore, once the order was passed by the learned Single Judge on consent, thereafter it was not open for the petitioner to contend that the matter may not be and/or ought not to have been remanded to the same sole arbitrator.”

6. A perusal of the above shows that the Hon’ble Supreme Court was of the view that where both the parties agree to set aside the award and remit the matter to another Sole Arbitrator for a fresh reasoned award, there is no impediment in doing so.

7. For the said reasons and with consent of parties, the award dated 19.05.2022 and the order dated 23.09.2022 are set aside and the parties are referred to the Sole Arbitrator with the following directions.

- i) Mr. Shyam Sharma, Adv. (Mob. No. 9810153965) is appointed as a Sole Arbitrator to adjudicate the disputes between the parties.
- ii) The arbitration will be held under the aegis of the Delhi International Arbitration Centre, Delhi High Court, Sher Shah Road, New Delhi hereinafter, referred to as the ‘DIAC’). The remuneration of the learned Arbitrator shall be in terms of the Fourth Schedule of the Arbitration & Conciliation Act, 1996.
- iii) The learned Arbitrator is requested to furnish a declaration in terms of Section 12 of the Act prior to entering into the



reference.

- iv) It is made clear that all the rights and contentions of the parties, including as to the arbitrability of any of the claim, any other preliminary objection, as well as claims on merits of the dispute of either of the parties, are left open for adjudication by the learned arbitrator.
- v) The parties shall approach the learned Arbitrator within two weeks from today.
- 8. The FD be returned to the petitioner and/or its authorized nominee.
- 9. With the above directions, the petitions are disposed of.

JASMEET SINGH, J

APRIL 9, 2024/DM

Click here to check corrigendum, if any