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

+ **FAO(OS) (COMM) 48/2023, CM APPL. 56348/2024 (Addl. Documents) & CM APPL. 1480/2025 (Delay 25 Days In Filing Reply)**

YASSH DEEP BUILDERS LLP

.....Appellant

Through: Mr. Amit Sibal, Sr. Adv. with
Mr. Rishi Agrawala, Ms.
Aarushi Tiku, Mr. Aroon
Menon, Mr. Rishabh Sharma
and Mr. Darpan Sachdeva,
Advs.

versus

SUSHIL KUMAR SINGH

.....Respondent

Through: Mr. Manish Vashisht, Sr. Adv.
with Mr. Rajeshwar Singh, Mr.
Virat K. Anand, Mr. Kumar
Shashank, Mr. Vikalp Singh,
Mr. Harrish Nadda, Ms. S.
Agrawal, Ms. Apoorva Gulati
and Mr. Vedansh Vashisht,
Advs. for R-1.
`Mr. Anil Sharma and Mr. Arpit
Sharma, Adv. for R-2.

CORAM:

HON'BLE MR. JUSTICE YASHWANT VARMA

HON'BLE MR. JUSTICE HARISH VAIDYANATHAN

SHANKAR

ORDER

13.01.2025

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1. The instant appeal has been preferred by the appellant aggrieved by the rejection of the application referable to Section 9 of the Arbitration and Conciliation Act, 1996 [“Act”].

2. When this appeal was originally entertained, we had in terms of



our order of 15 March 2023 provided that till the next date of hearing, status quo with respect to the suit property would be maintained. It is that order which has continued on this appeal till date.

3. We are further informed that in the meanwhile, proceedings before the Arbitral Tribunal [**“Tribunal”**] itself have commenced and where parties have filed their Statements of Claim and Defence.

4. In that view of the matter, we find no justification to examine the challenge to the original order passed by the learned Single Judge since it would always be open for the appellant to seek appropriate reliefs in terms of Section 17 of the Act.

5. While it is true that the commencement of arbitral proceedings would ordinarily not render these proceedings infructuous, the continuance of this appeal would essentially require us to examine the merits of the claim for interim measures and which would be an exercise which the Tribunal would itself have to undertake in case an application for interim protection were to be moved by the appellants. We also bear in consideration the stand of the respondents taken before us in these proceedings with it being contended that no third party rights are proposed to be created subject to any orders that the Arbitral Tribunal may pass and that the principles of lis pendens would in any case apply.

6. Accordingly, and while granting the appellants the said liberty, we only extend the interim order which had been passed by us on 15 March 2023 till such time as any application which the appellant proposes to make is taken up and considered by the Tribunal.

7. We further observe that any application that is moved by the appellant referable to Section 17 shall be examined by the Arbitral Tribunal independently and without being influenced by the order of



status quo which had been initially passed on this appeal and has continued during the pendency of these proceedings.

8. The appeal shall stand disposed of on the aforesaid terms.

9. All rights and contentions of respective parties on merits are kept open.

YASHWANT VARMA, J.

HARISH VAIDYANATHAN SHANKAR, J.

JANUARY 13, 2025/nd