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IN THE HIGH COURT OF DELHI AT NEW DELHI

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FAO(OS) (COMM) 135/2024 & CM Nos.37714-15/2024

INDIAN OIL CORPORATION LIMITED

.....Appellant

Through: Mr Sidhant Kumar with Mr Om
Batra, Advocates.

versus

MS. SUMAN GUPTA, PROPRIETOR OF
M/S BAKSON GAS SERVICE

.....Respondent

Through: Mr Anil K. Airi, Sr. Advocate with
Ms Akanksha Kaul, Mr Daman, Ms
Sadhna Sharma, Mr Girish Shankar
and Mr Mudit Ruhella, Advocates.

CORAM:

HON'BLE MR JUSTICE RAJIV SHAKDHER

HON'BLE MR JUSTICE AMIT BANSAL

ORDER

08.07.2024

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[Physical Hearing/Hybrid Hearing (as per request)]

CM APPL. 37715/2024

1. Allowed, subject to just exceptions.

FAO(OS) (COMM) 135/2024 & CM APPL. 37714/2024 [*Application
filed on behalf of the appellant seeking interim relief*]

2. Issue notice.

2.1 Ms Akanksha Kaul accepts notice on behalf of the respondent.

3. With the consent of the learned counsel for the parties, the appeal is
taken up for hearing and final disposal, at this stage itself.

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4. This appeal is directed against the order dated 29.06.2024 passed by the learned Single Judge passed on an application preferred by the respondent/petitioner under Section 9 of the Arbitration and Conciliation Act, 1996 [in short, the “Act”].

5. The principal grievance of the appellant i.e., Indian Oil Corporation Ltd. [IOCL] is that the impugned order was passed on the first day, without giving the appellant an opportunity to file a reply to the application.

5.1 This position, concededly, emerges on a bare perusal of the impugned order.

6. Given this position, counsel for the parties submit that without delving into the merits of the application, the said order should be set aside with an opportunity to the appellant/IOCL to file a reply to the application, whereupon the Court could pass a fresh order.

7. We may note that the impugned order, in any event, dissolves on 31.07.2024.

8 Mr Anil K. Airi, learned senior counsel, on instructions, says that even otherwise, despite the impugned order, supplies have not been resumed by the appellant/IOCL.

8.1 We do not wish to comment on this aspect of the matter having regard to the stand taken by the counsel for the parties.

9. Accordingly, the impugned order is set aside.

9.1 The appellant/IOCL is granted one (1) week to file a reply to the Section 9 petition/application.

9.2 Rejoinder thereto, if any, will be filed at least five (5) days after the receipt of a copy of the reply.



10. List the Section 9 application before the learned Single Judge on 22.07.2024.

10.1 The date is advanced because Mr Airi says that each day's delay will impact the respondent's business.

10.2 Learned Single Judge will pass appropriate orders concerning cancellation of the date already fixed in the matter, which is 31.07.2024.

11. The appeal is disposed of in the aforesaid terms. Pending applications shall stand closed.

12. Needless to add, we have not examined the merits of the appeal. It will be open to the parties to advance their respective contentions before the learned Single Judge.

13. Parties will act based on the digitally signed copy of the order.

RAJIV SHAKDHER, J

AMIT BANSAL, J

JULY 8, 2024 /tr

Click here to check corrigendum, if any