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

+ **FAO (COMM) 157/2022**

SHIV SHANKAR

.....Appellant

Through: Mr.Shrutanjaya Bhardwaj, Ms.Siddhi
Nagwekar, Mr.Omkar Hemanth and
Ms.Harshita Verma, Advocates

versus

KOGTA FINANCIAL INDIA LTD & ORS.

.....Respondents

Through: Mr.Rajinder Mathur, Advocate
(Through VC)

CORAM:

HON'BLE MS. JUSTICE REKHA PALLI

HON'BLE MR. JUSTICE SAURABH BANERJEE

ORDER

13.12.2024

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1. The present appeal under Section 37 of the Arbitration and Conciliation Act, 1996 (“ the Act”) seeks to assail the order dated 15.09.2022 vide which the appellant’s application under Section 34 of the Act assailing the arbitral award dated 19.02.2020 has been rejected by the learned Trial Court.
2. On the last date, this Court after taking into account that the learned Arbitrator who had rendered the award had been unilaterally appointed by the respondent, granted time to learned counsel for the respondent to obtain instructions as to why the award should not be set aside on this ground alone.
3. Today, he submits that in view of the recent decision of the Apex



Court in *Central Organisation for Railway Electrification v. ECI SPIC SMO MCML 2024 SCC OnLine SC 3219* dated 08.11.2024, he has instructions to state that respondent will not enforce the impugned arbitral award and will instead avail of other appropriate remedies in respect of the claim which was subject matter of adjudication in the arbitral award.

4. In light of this stand taken by the respondent nothing further survives for adjudication in the present appeal, which is accordingly disposed of by directing that the impugned arbitral award dated 19.02.2020 will no longer be enforceable. Needless to state that this order will not preclude the respondent from raising the claims which were subject matter of the said award, in any other proceedings, as per law.

REKHA PALLI, J

SAURABH BANERJEE, J

DECEMBER 13, 2024
SV