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IN THE HIGH COURT OF DELHI AT NEW DELHI

O.M.P. (E) (COMM.) 21/2024

HPCL MITTAL ENERGY LIMITED

.....Petitioner

Through: Mr. Saurav Agrawal, Adv.
(joined through VC)

Versus

LARSEN AND TOURBO LIMITED

.....Respondent

Through: Mr. N. K. Kantawala & Mr.
Amaya M. Nair, Advs. for
proposed witness/P. U.
Haribhakti

CORAM:

**JOINT REGISTRAR (JUDICIAL) MS. PRIYA
MAHENDRA, (DHJS)**

ORDER

% **08.10.2024**

**IA No.41691/2024 under Section 151 CPC moved by
petitioner seeking condonation of delay in filing
rejoinder**

Learned counsel for proposed witness/Mr. P. U.
Haribhakti accepts notice and submits that he has no
objection to the captioned IA.

Heard. In view of reasons stated in the application,
the captioned IA stands allowed to the extent that the
delay, if any, in filing rejoinder by the petitioner is
condoned and the same is allowed to be taken on record.

It is brought to my notice that rejoinder filed by the
petitioner is lying under objections. Learned counsel for
the petitioner is directed to take requisite steps as per law
to bring the same on record today itself. Accordingly, the
captioned IA stands disposed of

O.M.P. (E) (COMM.) 21/2024



Pass over at 2.30 p.m. today for bringing on record the aforesaid rejoinder filed by the petitioner.

Re-notify the matter at 2.30 p.m. today. At request, the order be given *dasti* to learned counsel for the petitioner.

PRIYA MAHENDRA (DHJS)
JOINT REGISTRAR (JUDICIAL)

OCTOBER 8, 2024/ab

Click here to check corrigendum, if any



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IN THE HIGH COURT OF DELHI AT NEW DELHI

O.M.P. (E) (COMM.) 21/2024

HPCL MITTAL ENERGY LIMITEDPetitioner

Through: Mr. Saurav Agrawal, Adv.
(joined through VC) with Mr.
Suraj Raj, Ms. Nikita Sharma &
Ms. Saloni Paliwal, Advs.
(physically)

Versus

LARSEN AND TOURBO LIMITEDRespondent

Through: Ms. Monika Singh & Ms.
Muskan Narang, Advs. for
respondent
Mr. N. K. Kantawala & Mr.
Satyender Chahar, Mr. A. M.
Nair & Mr. Nishant Kantawala,
Advs. for proposed witness/P. U.
Haribhakti (joined through VC)

CORAM:

**JOINT REGISTRAR (JUDICIAL) MS. PRIYA
MAHENDRA, (DHJS)**

ORDER

% **08.10.2024**

O.M.P. (E) (COMM.) 21/2024

At 2.30 p.m.

1. Reply filed by the witness/Mr. P. U. Haribhakti is already on record and the rejoinder to the same filed by the petitioner is now on record.
2. It is stated by learned counsel for the respondent that the respondent has already given no objection to the captioned petition.
3. Arguments heard. The captioned petition is opposed by learned counsel for the witness/Mr. P.U. Haribhakti on the ground that Mr. P.U. Haribhakti has submitted his Report as an expert after his appointment by the petitioner. The report in question is already on record. So, no useful purpose would be served by examining him.



4. *Per contra*, learned counsel for the petitioner submits that the report dated 20.08.2014 prepared by the witness/Mr. P.U. Haribhakti has been disputed by the respondent. He further submits that examination of witness/Mr. P.U. Haribhakti by the petitioner was also objected to by counsel for the respondent at the time of hearing of the application under Section 27 (1) of Arbitration and Conciliation Act filed by the petitioner before the Arbitral Tribunal for recording evidence of Mr. P.U. Haribhakti. Vide detailed order dated 25.05.2024, the learned Arbitral Tribunal allowed the application filed by the petitioner under Section 27 (1) of Arbitration & Conciliation Act after dealing with all the objections raised by the respondent. He also submits that as the Arbitral Tribunal has already approved the examination of witness/Mr. P.U. Haribhakti by the complainant/petitioner, the said issue cannot be re-agitated by Mr. P.U. Haribhakti in the present proceedings.

5. I have carefully heard the submissions and perused the record. Here it would be useful to reproduce Section 27(1) & (3) of the Arbitration & Conciliation Act which read as follows:-

“27. Court assistance in taking evidence. (1) The arbitral tribunal, or a party with the approval of the arbitral tribunal, may apply to the Court for assistance in taking evidence.

(2).....

(3) The Court may, within its competence and according to its rules on taking evidence, execute the request by ordering that the evidence be provided directly to the arbitral tribunal.”



From the bare reading of Section 27 (3) in conjunction with Section 27(1) of Arbitration & Conciliation Act, it is apparent that once the Arbitral Tribunal approves examination of any witness, the court only executes the request of recording evidence of the said witness by issuing necessary process to the said witness for recording of his evidence directly before the Arbitral Tribunal under Section 27(3) of Arbitration & Conciliation Act.

6. In view of clear order dated 25.05.2024 passed by the Arbitral Tribunal, the captioned petition is allowed as prayed for and the witness/Mr. P. U. Haribhakti is directed to appear before the Arbitral Tribunal from **14th to 16th October, 2024 at 11 am to 4.00 p.m. at The Oberoi Hotel, Dr. Zakir Hussain Marg, Delhi Golf Club, Golf Links, New Delhi**, for recording of his evidence. It is stated by learned counsel for the petitioner that all the necessary arrangements for the same would be made by the petitioner.

7. It is stated by learned counsel for the witness/Mr. P.U. Haribhakti that the witness is ready to abide by the aforesaid order passed by this court and shall appear before the Arbitral Tribunal on the scheduled dates.

In view of above, the captioned petition stands disposed of.

PRIYA MAHENDRA (DHJS)
JOINT REGISTRAR (JUDICIAL)
OCTOBER 8, 2024/ab

[Click here to check corrigendum, if any](#)