



2024:DHC:6924-DB



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

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Date of decision: 05.09.2024

+ **EFA(COMM) 6/2024**

MATSYA FINCAP PVT LTD

.....Appellant

Through: Ms Shivani Garg, Advocate with Mr
Bhupendra Kr Gupta, AR.

versus

REHMATULLAH AND ANR

.....Respondents

Through: Mr Arun Kumar Yadav, Advocate for
respondent No. 1 with respondent No.
1 in person.

+ **EFA(COMM) 9/2024**

MATSYA FINCAP PVT LTD

.....Appellant

Through: Ms Shivani Garg, Advocate with Mr
Bhupendra Kr Gupta, AR.

versus

REHMATULLAH AND ANR

.....Respondents

Through: Mr Arun Kumar Yadav, Advocate for
respondent No. 1 with respondent No.
1 in person.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

HON'BLE MR. JUSTICE AMIT BANSAL

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

AMIT BANSAL, J. (ORAL)

1. The above-captioned appeals are preferred against the impugned

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judgments and orders of even date, i.e., 2nd April 2024 rendered in Execution (COMM) No. 65/2021 and Execution (COMM) No. 66/2021 by the learned District Judge-Commercial Court-05 (Central), Tis Hazari, Delhi (hereinafter referred to as 'Execution Court').

2. *Via* the impugned judgments, the Execution Court has, in effect, refused to enforce the Award as it concluded that the Award was a "nullity". A perusal of the impugned order would show that the Execution Court has reached this conclusion as it accepted the submission advanced on behalf of the respondent that the appointment of the arbitrator was unilateral. Accordingly, the objections filed on behalf of the respondents were allowed and the execution petitions were dismissed.

3. Notice was issued by this Court in EFA(COMM) 6/2024 on 22nd July 2024 and in EFA(COMM) 9/2024 on 5th August 2024.

4. Authorised Representative (hereinafter referred to as "**AR**") of the appellant submits that without prejudice to the rights and contentions of the appellant, the appellant would be satisfied with initiation of *de novo* arbitration between the parties and a Sole Arbitrator being appointed by this court.

5. Counsel appearing on behalf of the respondents submits that they would have no objection if *de novo* arbitration is initiated by an Arbitrator appointed by this Court.

5.1. In view of the agreement arrived at by the parties, as indicated above, Ms. Beenashaw Nanda (Ph. No. 9810046611) is appointed as the Sole Arbitrator to adjudicate the disputes between the parties. The following directions are passed in this regard:

- i. The seat of arbitration will be Delhi.



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- ii. The Arbitrator shall be paid a cumulative fee of Rs. 1,00,000/- in respect of both the cases. The burden of fees of the arbitrator shall be borne by the appellant.
 - iii. The Arbitrator is requested to furnish a declaration in terms of Section 12 of the Arbitration and Conciliation Act, 1996 prior to entering upon reference.
 - iv. The parties shall approach the Arbitrator within two (2) weeks from today.
7. The parties are at liberty to raise all their contentions before the Arbitrator.
8. Accordingly, the appeals are disposed of in the aforesaid terms.

**AMIT BANSAL
(JUDGE)**

**RAJIV SHAKDHER
(JUDGE)**

SEPTEMBER 05, 2024
kd

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