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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CM(M) 2052/2023, CM APPL. 64412/2023 & CM APPL. 3670/2024**
PRATAP RANJAN & ANR.Petitioners

Through: Mr. Anil Kumar Saxena with
Mr. Pratap Ranjan, Advocates.

versus

TATA CAPITAL HOUSING FINANCE PVT. LTD. & ANR.
.....Respondents

Through: Mr. Vishwanathan Iyer with Mr. Rahul
Gupta, Advocates for respondent
No.1.
Mr. Rishi Kapoor, Advocate for
respondent No.2 (through V.C.)

CORAM:
HON'BLE MR. JUSTICE MANOJ JAIN

% **ORDER**
19.09.2024

1. Tata Capital Housing Finance Pvt. Ltd. (respondent No.1 herein) had invoked arbitration.
2. The petitioners herein moved an application seeking dropping of the proceedings on the ground of *res judicata*.
3. Such application was dismissed and that is how, the petitioners have filed the present petition.
4. However, thereafter, there is a significant development as now nothing is pending before the Arbitral Tribunal as even the award has been published.
5. Learned counsel for respondent No.1 Company/claimant has, in



all fairness, stated that since the Arbitrator had been appointed unilaterally in contravention of the dictum contained in *Perkins Eastman Architects DPC & Anr. v. HSCC (India) Ltd.*: (2020) 20 SCC 760, the award, even otherwise, would not be enforceable one and, therefore, as per the instructions, the claimant Company would not be filing any execution either. Learned counsel for the respondent No.1, however, states that they would still explore whether they can file an application for appointment of Arbitrator in terms of Section 11(6) of Arbitration & Conciliation Act, 1996.

6. In view of the above statement, learned counsel for the petitioner does not press the present petition.

7. The petition is, accordingly, disposed of as not pressed.

MANOJ JAIN, J

SEPTEMBER 19, 2024
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