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

+ O.M.P.(I) (COMM.) 9/2024

SMCC CONSTRUCTION INDIA LIMITEDPetitioner

Through: Mr. Mayank Pandey, Mr. Ashish
Kumar Pandey and Mr. Subramaniam
S, Advocates.

versus

M/S JAYAM ENGINEERSRespondent

Through: None.

+ O.M.P.(I) (COMM.) 11/2024

SMCC CONSTRUCTION INDIA LIMITEDPetitioner

Through: Mr. Mayank Pandey, Mr. Ashish
Kumar Pandey and Mr. Subramaniam
S, Advocates.

versus

M/S JAYAM ENGINEERSRespondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

ORDER

11.12.2024

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I.A. 40745/2024 in O.M.P.(I) (COMM.) 9/2024

I.A. 40669/2024 in O.M.P.(I) (COMM.) 11/2024

1. The present applications under Section 151 CPC have been filed by the Petitioner/Applicant seeking disbursal of amount to the Respondent realized in an auction dated 03.08.2024 which was conducted in pursuance to the Order dated 01.03.2024 passed by this Court in O.M.P.(I) (COMM.)



9/2024 and O.M.P.(I) (COMM.) 11/2024 respectively by which this Court had disposed of the said petitions filed under Section 9 of the Arbitration and Conciliation Act, 1996 for removal of materials of the Respondent from the Applicant's customer site situated at Andhra Pradesh, India.

2. Material on record indicates that the Applicant had engaged the Respondent as a sub-contractor for the mechanical engineering works at the site of the customer of the Applicant. It is stated that since work was not completed by the Respondent and the project site could not be delivered within time to the customer, arbitration was invoked by issuing notice to the Respondent under Section 21 of the Arbitration and Conciliation Act, 1996.

3. In the meantime, the Applicant filed petitions being O.M.P.(I) (COMM.) 9/2024 and O.M.P.(I) (COMM.) 11/2024 under Section 9 of the Arbitration and Conciliation Act, 1996 for removal of materials of the Respondent from the Applicant's customer site. Since the Respondent was evading service, this Court vide Order dated 01.03.2024 had disposed of the said petitions ex-parte and appointed Mr. Abrar Mohammed Abdullah, Advocate, as Local Commissioner for the purpose of sale of materials of the Respondent. It is stated that pursuant to the said Order dated 01.03.2024, auction was conducted, materials were sold and the amount is lying with the Applicant.

4. The Applicant has, therefore, filed the present application seeking disbursal of amount to the Respondent realized in the auction.

5. The Applicant is directed to deposit the amount lying with it with the Registry of this Court in a separate account to be opened in the name of the Registrar General of this Court. The said amount shall be kept in the form of an FDR. The said amount shall be subject to the outcome of the arbitration



proceedings.

6. The amount deposited by the Applicant shall be released, subject to further Orders of this Court in an appropriate application filed either by the Petitioner/Applicant or the Respondent.

7. The applications are disposed of.

SUBRAMONIUM PRASAD, J

DECEMBER 11, 2024

S. Zakir