



2024:DHC:7362-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% *Date of Decision: 13.09.2024*+ **EFA(OS) (COMM) 16/2024**

SURENDER GUPTA AND ANR

.....Appellants

Through: Mr Neeleshwar Pavani, Adv.

versus

RAJAT WADHWA

.....Respondent

Through: Respondent-in-person.

CORAM:**HON'BLE MR. JUSTICE RAJIV SHAKDHER****HON'BLE MR. JUSTICE AMIT BANSAL****[Physical Hearing/Hybrid Hearing (as per request)]****RAJIV SHAKDHER, J. (ORAL):****CM Appls.54005-06/2024**

1. Allowed, subject to just exceptions.

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2. Issue notice.

2.1 Mr Rajat Wadhwa, the respondent, who appears in person and has joined the proceedings through video conferencing, accepts notice.

3. Mr Wadhwa says that there are aspects that the appellants have not disclosed before the Court. *Inter alia*, we are told that the appellants have moved the Allahabad High Court concerning the imposition of transfer charges.

3.1 Mr Wadhwa contends that this aspect was not disclosed either before the learned Arbitrator or the executing court.



3.2 According to Mr Wadhwa, transfer charges have now escalated to Rs.2,20,40,500/-.

4. The record discloses that a sum of Rs.1.40 crores was deposited by the appellants with the Registry of this Court, which, pursuant to a direction issued by the executing court, has been released to Mr Wadhwa, *albeit*, against indemnity.

5. It is not disputed by the learned counsel for the appellants that a petition filed under Section 34 of the Arbitration and Conciliation Act, 1996 [in short “1996 Act”] by the appellants is pending adjudication with the district court.

5.1 We are told that the said petition is listed before the concerned court today i.e., 13.09.2024.

6. Furthermore, we may also note that Mr Wadhwa says that he intends to move the executing court for deposit of the balance amount.

7. According to us, no interference is called for with the impugned judgment and order rendered in the application preferred by the appellants in a disposed of execution petition.

8.1 That said, we would urge Mr Wadhwa to take necessary steps in that regard to transfer the subject property so that the financial burden hereon does not pile up to the detriment of the appellant.

9. It is quite obvious that if the appellants were to succeed in the petition filed under Section 34 of the 1996 Act, the burden of transfer charges would clearly shift onto Mr Wadhwa.

10. Needless to state, the observations made hereinabove will not come in the way of parties in respect of next steps that they may take before an appropriate forum, *albeit*, as per law.



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11. The appeal is disposed of in the aforesaid terms.
12. Pending application shall stand closed.

RAJIV SHAKDHER, J

AMIT BANSAL, J

SEPTEMBER 13, 2024/pmc

Signature Not Verified

Digitally Signed By: PREM
MOHAN CHOUDHARY

Signing Date: 23/09/2024
20:34:03

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