



**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH**

FAO-COM No.7 of 2023 (O&M)

Date of Decision: 22.07.2025

M/s Chartered Mercantile M.B. Ltd.

.....Appellant.

Versus

M/s POSCO E&C India Private Limited and another

.....Respondents.

**CORAM: HON'BLE MRS. JUSTICE LISA GILL
HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA**

Present:- Mr. Dheeraj Mahajan, Advocate
for the appellant.

Mr. Ambanshu Sahni, Advocate
for respondent No.1.

Mr. Ashwani Malhotra, Advocate
for respondent No.2.
(joined through Video-Conferencing)

LISA GILL, J.(Oral)

Prayer in this appeal is for setting aside order dated 20.03.2023 passed by learned Additional District Judge-cum-Presiding Judge, Exclusive Commercial Court at Gurugram (for short 'the Commercial Court'), whereby application under Order 9 Rule 13 read with Section 151 CPC filed by appellant for setting aside ex-parte order dated 18.01.2022 passed by learned Commercial Court in a petition under Section 9 of the Arbitration and Conciliation Act, 1996 (for short 'the Arbitration



Act') filed by respondent No.1, was dismissed.

2. Application i.e. **CM No.32-FA-COM of 2025** has been filed on behalf of respondent No.1 under Section 151 CPC seeking disposal of present appeal as infructuous.

3. Learned counsel for respondent No.1, while referring to above-said application duly accompanied by an affidavit of authorized representative of respondent No.1, submits that this appeal is rendered infructuous because respondent No.1 does not seek to rely upon order dated 18.01.2022 in view of the arbitration proceedings initiated and application under Section 17 of the Arbitration Act filed by it against respondent No.2. Learned counsel for respondent No.1 submits that contempt petition, which is listed for hearing on 28.07.2025, shall also be withdrawn. Such action, it is submitted, should however not be treated as an impediment or estoppel qua remedies as may be available to respondent No.1 in accordance with law or admission of any kind against itself.

4. Para No.13 of the afore-referred Civil Misc. Application and the prayer thereof read as under:-

“13. In view of the commencement of arbitration proceedings between Respondent No.1 and Respondent No.2 with the correct procedure with an order from the court of competent jurisdiction, and the remedies being pursued therein which may be construed as overlapping, Respondent No.1 does not intend to pursue the Impugned Order dated 18.01.2022, the Execution Petition bearing CIS No.Exe 810 of 2023, filed pursuant thereto and the



*Contempt Application bearing no.CM 475 of 2022
filed before Hon'ble District Court, Gurugram."*

x x x x x

"Prayer

x x x x x

*i. Pass an order directing the disposal of the
Captioned Appeal while recording the submission of
the Respondent No.1 that it does not seek to rely upon
the Impugned Order dated 18.01.2022 in view of the
arbitration initiated and application under section 17
of the Arbitration Act filed by it against the
Respondent No.2;"*

5. Learned counsel for the appellant is unable to deny that in the present factual matrix, this appeal is indeed rendered infructuous.
6. Ordered accordingly.
7. Pending application(s), if any, is/are disposed of.
8. Liberty is, however, afforded to the appellant to file an appropriate application in case any proceedings are initiated on the basis of order dated 18.01.2022 passed by learned Commercial Court.

**(LISA GILL)
JUDGE**

**(MEENAKSHI I. MEHTA)
JUDGE**

July 22, 2025
Yag Dutt

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No