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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ O.M.P.(I) (COMM.) 186/2024 & I.A. 31372/2024, I.A. 46344/2024
BINA & ORS.Petitioners

Through: *Appearance not given.*

versus

ASHOK BANSALRespondent
Through: Mr. H. R. Khan, Mr. Nihal Ahamd,
Mr. Tushar Swami, Ms. Sabiha
Fatma, Advocates.

CORAM:
HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

ORDER

04.02.2025

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1. The Petitioners has approached this Court under Section 9 of the Arbitration and Conciliation Act, 1996 with the following prayers:-

“A. To grant an interim injunction against the Respondent, restraining the Respondent (including its employees, representatives, servants, or agents or anyone claiming through him), during the pendency of the Arbitration Proceedings, from unlawfully selling the 30,000 tons of Industrial Coal material owned by Late Sh. Balkishan Goyal (late husband of the Petitioner) in his personal capacity and under the name of his sole proprietorship firm i.e., Deep Construction Company.

B. To Restrain the Respondent from creating any encumbrance/charge/lien on the Petitioner's raw material during the pendency of the Arbitration proceedings.



C. To pass ad interim ex parte order to restrain the Respondent from selling/transferring/parting or creating any kind of lien/encumbrance/charge in the RMC plant created under the partnership agreement dated 18.01.2023 under the partnership firm name and style of M/S G&G Concrete Solutions.

D. To pass such other orders or directions as deemed fit or proper in the facts and circumstances of the present case.”

2. Material on record indicates that this Court, *vide* Order dated 31.05.2024, had restrained the Respondent from dealing with the 30,000/- tonnes of industrial coal which is the subject matter of the petition under Section 9 of the Arbitration and Conciliation Act, 1996.

3. Paragraphs No.13 and 14 of the Order dated 31.05.2024 passed by this Court reads as under:-

“13. In view of the averments contained in the petition; considering the documents appended therewith; and based on the submissions made at the Bar, the respondent is restrained from dealing with the 30,000 tons of industrial coal that was subject matter of purchase by late Sh. Balkishan Goyal in any manner; or from transferring, alienating or creating any lien, encumbrance or charge over any assets of the partnership firm in the name and style of M/s G&G Concrete Solutions, created vide Amended Partnership Deed dated 18.01.2023, till the next date of hearing.

14. Let a copy of this order be served by the petitioners upon the respondent within 07 days.”

4. There was an allegation that the Order dated 31.05.2024 passed by this Court, restraining the Respondent from dealing with the 30,000/- tonnes



of industrial coal, has been violated and an I.A. No.33010/2024 was filed by the Petitioners for appointment of a Local Commissioner. *Vide* Order dated 12.07.2024, this Court had appointed a Local Commissioner to file a report.

5. The Local Commissioner has filed the Inspection Report on 17.09.2024.

6. On 19.09.2024, this Court was of the opinion that Respondent has *prima facie* has committed contempt of this Court and has also directed the Respondent to remain present in Court.

7. Looking at the difficulties faced by the Local Commissioner as the Local Commissioner was intimidated, proceedings were initiated against the Respondent and *vide* Order dated 28.10.2024, this Court had directed initiation of criminal contempt against the person instrumental for obstructing the administration of justice for preventing the Local Commissioner from carrying out its work. It is stated that notice has been issued in the contempt petition.

8. Be that as it may, since injunction has also been granted *vide* Order dated 31.05.2024, this Court gave suggestion to the learned Counsel for both the parties for appointment of a Sole Arbitrator to adjudicate the disputes between the parties.

9. In view of the above, this Court is inclined to appoint an Arbitrator to adjudicate upon the disputes which have arisen between the parties.

10. Accordingly, Mr. Gautam Narayan, Senior Advocate, (Mob. No.9811411735) is appointed as a Sole Arbitrator to adjudicate upon the disputes between the parties.

11. The arbitration would take place under the aegis of the Delhi International Arbitration Centre (DIAC) and would abide by its rules and



regulations. The learned Arbitrator shall be entitled to fees as per the Schedule of Fees maintained by the DIAC.

12. The learned Arbitrator is also requested to file the requisite disclosure under Section 12(2) of the Arbitration & Conciliation Act within a week of entering on reference.

13. All rights and contentions of the parties in relation to the claims/counter-claims are kept open, to be decided by the learned Arbitrator on their merits, in accordance with law.

14. Needless to say, nothing in this order shall be construed as an expression of this Court on the merits of the contentions of the parties.

15. In view of the above, the present application be treated as one filed under Section 17 of the Arbitration and Conciliation Act, 1996.

16. The Order dated 31.05.2024 passed by this Court shall remain in force till the application under Section 17 of the Arbitration and Conciliation Act, 1996 is finally decided.

17. If the Arbitrator finds that the Order dated 31.05.2024 has been wilfully violated, it is up to the Arbitrator to refer the matter to this Court for initiating contempt proceedings.

18. The present petition stands disposed of in the above terms along with pending application(s), if any.

SUBRAMONIUM PRASAD, J

FEBRUARY 4, 2025

RJ