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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **C.R.P. 207/2024 & CM APPL. 38430/2024**

MAGICON IMPEX PVT LTD & ANR.Petitioners

Through: Mr. Rajat Srivastava, Adv.
through V.C.

versus

INDOSTAR CAPITAL FINANCE LTDRespondents

Through: Mr. Rishabh Malik &
Vikas Sharma, Advs. for
R-1.

CORAM:
HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER
13.02.2025

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1. The present petition is filed challenging the order dated 03.04.2024, passed in Execution (Comm.) 240/2022, whereby the objection filed by the petitioner (Judgment Debtor) was dismissed.
2. The petitioner had filed an objection to the execution of the Arbitral award dated 27.09.2021 on the ground that the learned Arbitrator was appointed unilaterally and had passed an *ex-parte* award. It was contented that award is non executable.
3. The petitioner had relied upon the judgment passed by the Division Bench this Court in the case of ***Kotak Mahendra Bank v. Narender Kumar Prajapat : EFA(COMM) 3/2023***, wherein the Division Bench had upheld the order passed by the Commercial Court rejecting the enforcement of an *ex parte* arbitral award, where the Arbitrator was unilaterally appointed.
4. The learned Trial Court distinguished the judgment passed by the Division Bench by holding that the issue of applicability



in Section 47 of the Code of Civil Procedure, 1908 in the proceeding for enforcement of an arbitral award was not the issue before the Division Bench.

5. The impugned order, *prima facie*, does not appear to be correct. However, considering that the execution proceedings at this stage have been withdrawn, the issue is left open to be decided as and when a fresh application is filed by the Decree Holder.

6. Needless to say, the petitioner is at liberty to take all objections at the appropriate stage.

7. The present petition is disposed of in the aforesaid terms.

AMIT MAHAJAN, J

FEBRUARY 13, 2025

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