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Sanjay Gupta vs.aarone Developers Pvt. Ltd

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Court : Delhi

Decided On : Sep-13-2017

Appellant : Sanjay Gupta

Respondent : Aarone Developers Pvt. Ltd

Judgement :

$~41 & 46 * IN THE HIGH COURT OF DELHI AT NEW DELHI % + Judgment delivered on:

13. 09.2017 O.M.P. (T) (COMM.) 73/2017 & I.A. 10589/2017 SANJAY GUPTA versus AARONE DEVELOPERS PVT. LTD + ARB. A. (COMM.) 24/2017 & I.A. 10263/2017 .....

... Petitioner
..... Respondent SANJAY GUPTA versus AARONE DEVELOPERS PVT. LTD Advocates who appeared in this case: .....

... Petitioner
..... Respondent For the

... Petitioner
For the

... RESPONDENTS

. Mr. Amitabh Chaturvedi, Mr. Manish Vashisht, Mr. Sameer Vashisht and Mr. R. Gupta, Advs. Mr. Ravi Gupta, Sr. Adv. with Mr. Ankit Jain, Mr. Sachin Jain, Mr. S. Rai and Ms. M. Bhatia, Advs. CORAM:-

"HONBLE MR JUSTICE SANJEEV SACHDEVA JUDGMENT1309.2017 SANJEEV SACHDEVA, J.

(ORAL) I.A. No.10590 & 10591/2017 (Exemption) (COMM.) 73/2017 in O.M.P. (T) O.M.P.(T) (COMM.) 73/2017 & ARB. P. (Comm.) 24/2017 Page 1 of 4 The applications are allowed, subject to all just exceptions. O.M.P. (T) (COMM.) 73/2017 & ARB. A. (COMM.) 24/2017 1. The petitioner has filed O.M.P. (T) (COMM.) 73/2017 under section 14 of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as the Act), seeking termination of the mandate of the sole Arbitrator who was the named arbitrator in the agreement between the parties.

2. By the ARB. A. (COMM.) 24/2017, under section 37 of the Act, the petitioner seeks setting aside the order dated 28.08.2017 passed by the sole arbitrator on an application under section 17 filed by the Respondent, directing parties to maintain status quo.

3. The contention of learned counsel for the petitioner inter alia is that the named Arbitrator was biased, in as much as, he was connected with the petitioner as companies of his son is tenant of the petitioner with whom there are certain disputes.

4. It is further contended that the arbitrator has also suffered a disqualification. He further contends that the arbitration proceedings were commenced in the year 2013 and were not being proceeded with. However, on a telephonic request by the respondent, the matter was unilaterally taken up on 28.08.2017 when the impugned order was passed in the absence of the petitioner. Learned Senior Counsel for the respondent disputes the 5. O.M.P.(T) (COMM.) 73/2017 & ARB. P. (Comm.) 24/2017 Page 2 of 4 contentions of the petitioner. He, however, without prejudice submits that to avoid any allegations of bias the respondents are agreeable for termination of the mandate of the named Sole Arbitrator and appointment of a Sole independent Arbitrator to adjudicate the disputes between

the parties.

6. In view of the above without casting any aspersions on the sole named Arbitrator and with the consent of the parties the mandate of the Arbitrator is terminated and accordingly Mr. Justice Vikramajit Sen (Former Judge of the Supreme Court) (Mob# 8447333366), B- 104, Second Floor, Western Avenue, Maharani Bagh, New Delhi - 110065 is appointed as the Sole Arbitrator to adjudicate the disputes between the parties.

7. The parties shall appear before the Arbitrator for directions on 18.09.2017 at 4.00 PM.

8. The Arbitrator shall fix his fee in consultation with learned counsel for the parties.

9. In view of the facts and circumstances of the case, it is directed that the Sole independent Arbitrator, shall consider the application under Section 17 filed by the respondent afresh.

10. The Arbitrator shall consider the application of the respondent expeditiously and dispose of the same preferably within a period of four weeks from the date he enters into reference. O.M.P.(T) (COMM.) 73/2017 & ARB. P. (Comm.) 24/2017 Page 3 of 4 11. Learned counsel for the petitioner further submits that the reply to the claim petition as well as reply to the application under Section 17 shall be filed within two days of the Arbitrator entering into reference.

12. The erstwhile arbitrator is directed to transmit the entire original record to the newly appointed Arbitrator. The erstwhile Arbitrator shall hand over the entire original record in a sealed cover to counsel for the respondent who shall hand over the original records to the above named Arbitrator on the said date.

13. It is clarified that the interim order dated 28.08.2017 shall continue to operate till the Arbitrator takes up the Section 17 application. The Arbitrator is at liberty to continue, vary, modify or vacate the interim order dated 28.08.2017 at his discretion, without being influenced by anything stated in this order. The order shall continue till the Arbitrator deems it appropriate to confirm, vary, modify or

vacate the same.

14. The petitions are accordingly disposed of.

15. Order Dasti under signatures of the Court Master. SANJEEV SACHDEVA, J SEPTEMBER13 2017 rs O.M.P.(T) (COMM.) 73/2017 & ARB. P. (Comm.) 24/2017 Page 4 of 4

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