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**(2006) 05 DEL CK 0195**  
**In the Delhi High Court**  
**Case No : O.M.P. 150 of 2006**

Mr. Arun Kathpalia

APPELLANT

Vs

Shri Jai Mangharam Mukhi

RESPONDENT

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**Date of Decision :** 17-05-2006

**Acts Referred:**

Arbitration and Conciliation Act, 1996 — Section 17, 9

**Citation :** (2006) 05 DEL CK 0195

**Hon'ble Judges :** A.K. Sikri, J

**Bench :** Single Bench

**Advocate :** Sandeep Sethi and M. Dutta, for the Appellant; Party in person, for the Respondent

**Final Decision :** Allowed

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## **Judgement**

A.K. Sikri, J.—This appeal is preferred against the order dated 17th March, 2006 passed by the learned arbitrator in the respondent's application filed u/s 17 of the Arbitration and Conciliation Act, 1996 (for short 'the Act'). In the said application, the respondent herein (claimant in the arbitration proceedings) had prayed for certain interim directions. I may note at this stage that the respondent herein has also filed OMP No. 114/2004 u/s 9 of the Act. In that application, certain directions were given vide order dated 21st November, 2005 and the court also observed that in respect of other issues with regard to liabilities, fees to be recovered, dues of income tax department and other information that is necessary for the purpose of the parties being able to file their returns for the last two years, the respondent would be entitled to move application u/s 17 of the Act before the learned arbitrator.

2. Under these circumstances, application was filed by the respondent praying for various interim directions. The appellant herein filed reply to the said application contesting those prayers. Various objections were raised by the appellant including maintainability of application u/s 17 of the Act without filing the statement of claim. The appellant had also referred to various orders passed by

this court from time to time in OMP No. 114/2004 on the basis of which it was submitted that the adequate protection/information was provided to the respondent and no further directions were necessary. After hearing the parties, the learned arbitrator passed the impugned order. Plea of the appellant herein about the maintainability of the respondent's application u/s 11 was negatived by giving detailed reasons. However, after deciding on the aforesaid aspect, the learned arbitrator proceeded to pass the following directions.

(i) disclose his bank accounts or accounts opened in the name of Kathpalia and Associates.

(ii) desist from operating any bank account, deposits and investments in the name of Kathpalia and Associates without the permission of this Arbitral Tribunal.

(iii) file before this Arbitral Tribunal a full and accurate account of fees received by him from the clients of the partnership firm by cheque or in cash or in kind from inception till date, including the fees received during that time in his name or in the name of Kathpalia and Associates and to ensure that the same are credited to the bank accounts of the partnership firm;

(iv) file before this Arbitral Tribunal a list of outstanding bills of fees and a list of matters and work done for which bills are yet to be prepared in the name of the partnership firm or in the name of Kathpalia and Associates;

(v) desist from diverting the clientele of the partnership firm or to render services to person or entities who had been the clients of the partnership firm by way of his private practice and to render account of any work done for them by him outside the partnership firm in those matters till date;

(vi) desist from removing any further property of the partnership firm from the premises of the partnership firm or to allow anyone to occupy or use the premises or property of the partnership firm or to create any liability for the partnership firm; and

(vii) desist from using the employees or assets of the partnership firm for his personal work and or private practice.

3. On what basis the aforesaid directions are given, is not stated in the impugned order. No reasons are given. The order does not disclose the respective arguments of both the parties on merits and consequently does not deal with those arguments as well. The respondent who appears in person, conceded that it is a non-reasoned and non-speaking order in so far as it relates to the directions given therein.

4. In view thereof, without going into other pleas raised in this appeal, this order is liable to be set aside on this short ground. This appeal is allowed and the impugned order is set aside. Matter is remitted back to the learned arbitrator. He shall hear the parties again and pass a speaking order. Keeping in view the nature of controversy and the urgency involved, the learned arbitrator shall fix

hearing on an early date and it is expected that both the parties shall co-operate the learned arbitrator in this behalf. No costs.