
(2019) 04 DEL CK 0233

In the Delhi High Court

Case No : First Appeal From Order (OS) (COMM) No. 22 Of 2018, Civil
Miscellaneous Application No. 4553 Of 2018

Steel Authority Of India Ltd (SAIL)

APPELLANT

Vs

Danieli Corus Bv

RESPONDENT

Date of Decision : 29-04-2019

Acts Referred:

Arbitration And Conciliation Act, 1996 — Section 9

Citation : (2019) 04 DEL CK 0233

Hon'ble Judges : G.S.Sistani, J;Jyoti Singh, J

Bench : Division Bench

Advocate : Sudhir Chandra, Siddharth Yadav, Wasim Ashraf, Ashwani Bhalla,
Suhail Dutt, Moonmoon Nanda, Atul Shrivastava, Azhar Alam

Final Decision : Disposed Of

Judgement

G.S. Sistani, J

1. The present appeal is directed against an order passed by a learned Single Judge of this Court on a petition filed by the respondent under Section 9 of the Arbitration & Conciliation Act. The operative part of the order of the learned Single Judge reads as under:

"20. In view of the above, I pass an ad-interim order restraining the respondent or its agents in any manner disclosing to a third party the proprietary drawings/information and/or drawings/information which bears disclaimer:

"All Rights Reserved. This is a commercial drawing and is supplied for use for an authorised job. This drawing or any information therefrom shall not be disclosed, used or reproduced either wholly or in part, except in conjunction with such use and with the prior written consent of Daniel Corus. This drawing may not be used for construction or fabrication until signed as checked and approved."

21. The petition is allowed in the above terms.

22. I may, however, hasten to add that my above observations are prima facie in nature and in no manner bind the Arbitral Tribunal who shall adjudicate the disputes between the parties on their own merits. Either party would be free to raise any further claims, submissions, defence or pray for interim relief from the Arbitral Tribunal which would be constituted in terms of the Arbitration Agreement."

2. Learned Senior Counsel submits that after the agreement came to an end, the respondents had restrained the appellant from buying spare parts from the open market. He submits that the necessity of buying spare parts from the open market has arisen on account of the exorbitant price being charged by the respondent for the spare parts knowing fully well that in the absence of spares, the running of the furnace would come to a standstill.

3. Mr. Sudhir Chandra, learned senior counsel appearing for the appellant submits that the learned Single Judge has exceeded his jurisdiction and has failed to take into account that a general order concerning 17000 drawings could not have been passed. He further submits that serious prejudice has been caused to the rights of the appellant, which is a public sector undertaking.

4. It is also pointed out that parties had entered into an agreement dated 2.10.2008 for setting up of 1x4060 cubic meter Blast Furnace No. 5 (package No. 010) under 4.2 Mtpa Crude Steel Expansion project at Rourkela Steel Plant, Rourkela.

5. Mr. Dutt, learned senior counsel appearing for the respondent has pointed out that post the order passed by the learned Single Judge, an arbitrator was appointed, who is seized of the matter; the matter has been argued and reserved for judgment on 28.02.2019, and now, time has been extended by the ICC upto 31.05.2019 to render the award. He further submits that in any case the impugned order is interim in nature and it would merge in the final award. In effect, Mr. Dutt submits that should his statement of claim be allowed, directions passed in the award would hold the field and correspondingly, should the statement of claim be rejected then the interim order would automatically stand vacated.

6. Mr. Sudhir Chandra, learned Senior Counsel submits that this order would continue to remain a judicial order and may cause prejudice to his rights. Mr. Dutt disputes this submission made by the learned senior counsel for the appellant. He submits that the parties would remain bound by the award.

7. We are unable to appreciate this submission of learned senior counsel for the appellant for the reason that as Mr. Dutt has rightly pointed out that should the arbitrator reject the claim petition, this order would automatically become a nullity and should the claim petition be allowed, the said order will hold the field and the interim order would merge in the final order.

8. In view of the subsequent developments i.e. arbitration proceedings having

come to an end, the matter being reserved for rendering of the award by 31.05.2019, we see no reason to entertain this appeal. We however make it clear that final award between the parties would hold the field and the interim order would merge in the final order.

9. With these observations, the appeal is disposed of. We make it clear that we have not expressed any opinion on the merits of the matter.