

Arb. A. No. 2/2017

M/s. Teesta Urja Limited vs. M/s. Abir Infrastructure Pvt. Ltd. & Ors.

**BEFORE
MR. JUSTICE SATISH K. AGNIHOTRI, CJ.**

23.02.18 Present: Mr. Tarun Johri and Ms. Sabina Chettri, Advocates for the Appellant.

Mr. Karma Thinlay, Senior Advocate with Mr. Thinlay Dorjee Bhutia, Advocate for the Respondents.

...

The instant appeal is impugning the Order dated 20.09.2017 rendered by the District Judge, East District at Gangtok, wherein the learned Judge has passed the Order as under:-

"15. For the reasons mentioned above and also taking into consideration that as per clause 6 of the contract agreement there is an Arbitration clause as per which, all disputes between the Owner and Contractor shall be settled as per the provision of Articles 38 of General Conditions of Contract, the petition filed by the Petitioner under Section 9 of the Arbitration and Conciliation Act, 1996 is hereby allowed. Further, the order passed on 28.09.2016 shall remain effective for a period of 60 days from today."

Learned Counsel, appearing for the Appellant, submits that the District Court was moved under Section 9 of the Arbitration and Conciliation Act, 1996, seeking stay of the recovery of amount against the Respondent herein. The District Judge by Order dated 28.09.2017, on construing the submissions of both the parties, refrained the Respondent from deduction of 1% BOCW Welfare Cess as mentioned in the letter dated 29.08.2016 bearing reference No.TUL/PW/0001/NEC/2016-17/0002 until disposal of this application and further orders from this

Court. Subsequently, while examining the case being Arbitration Case No.03 of 2006, learned District Judge disposed of the petition observed as above. Further, in respect of interim relief, it was observed that the Order dated 20.09.2017 shall remain effective for a period of 60 days from the dated of the Order, i.e. 20.09.2017. Learned Counsel, appearing for the Appellant, fairly submits that the 60 days has come to an end on 25.11.2017. Thus, nothing survives for adjudication in the instant petition.

Learned Senior Counsel, appearing for the Respondents, concurs with the submission made by the learned Counsel for the Petitioner.

Accordingly, the petition has become infructuous and is disposed of.

Chief Justice
23.02.2018

pm **Index : Yes / No**
Internet : Yes / No