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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **FAO (COMM) 30/2023 & C.M.Nos.5360-5361/2023**

**PRADEEP KUMAR** ..... Appellant

Through: Mr.Atul Kumar, Advocate.

versus

**KAILASH SHARMA & ANR.** ..... Respondents

Through: None

**CORAM:**

**HON'BLE MR. JUSTICE MANMOHAN**

**HON'BLE MS. JUSTICE MINI PUSHKARNA**

**ORDER**

% **17.08.2023**

**C.M.Nos.5360-5361/2023**

1. Exemption allowed, subject to all just exceptions.
2. Accordingly, the applications stand disposed of.

**FAO (COMM) 30/2023**

3. Present appeal has been filed challenging the impugned order dated 19<sup>th</sup> October, 2022 passed by the District Judge Commercial Court in OMP (COMM) No.11/2019, whereby the Arbitral Award dated 12<sup>th</sup> January, 2019 passed by sole Arbitrator in the matter of “*Pradeep Kumar v. Kailash Sharma, Director of M/s. Sappers Koshico Pumps (India) Pvt. Ltd. & Others*” was set aside on the ground that after expiry of the time of one year to render the award, the Arbitrator could not have extended the time on her own and that too, without consent of both the parties.



4. Learned counsel for the appellant states that the learned sole Arbitrator had noted that the proceedings continued with oral consent of both parties (as recorded in the Arbitrator's letter dated 02<sup>nd</sup> November, 2018) and the award was passed after hearing both the parties. It is contended that hearings continued after issuance of the letter dated 02<sup>nd</sup> November, 2018 for extension of mandate and thus, the respondents are estopped by their own conduct to challenge the extension of time for completion of arbitration proceedings.
5. Learned counsel for the appellant further states that the learned Single Judge has erred in stating that period of twelve months is to be calculated from the date of reference, whereas the period is to be calculated from the date of completion of pleadings. In support of his submission, he relies upon the judgment of the Supreme Court in *Tata Sons Private Limited (Formerly Tata Sons Limited) vs. Siva Industries & Holdings Limited & Ors. (2023) 5 SCC 421*.
6. Learned counsel for the appellant also states that he has filed the additional documents. However, the same are not on record. Let the same be brought on record forthwith.
7. Issue notice to the respondents by all modes of service including *dasti*, returnable on 18<sup>th</sup> January, 2024.

**MANMOHAN, J**

**MINI PUSHKARNA, J**

**AUGUST 17, 2023/KA**