**AFFIDAVIT IN SUPPORT OF STAY APPLICATION**

IN THE HIGH COURT OF............................

C. M. P. No............................ of 19............................

in

Civil Writ Petition No.................. of 19........................

In the matter of............................................................

and In the matter of............................................................

A. B................................................................ Petitioner

*Versus*

C. D........................................................... Respondents

1............................ S/o Shri............................ resident of............................. do hereby solemnly affirm and declare as under:

1. That I am the proprietor of............................ and therefore fully conversant with the facts of the present case and competent to swear this affidavit.

2. That the accompanying application for stay has been drafted by my counsel on my instructions and the facts stated therein are true and correct to my knowledge and belief based on the records of the respondents.

Deponent

**VERIFICATION**

I, the abovenamed deponent do hereby verify and declare that the facts stated in the above paragraphs of my affidavit are true to my knowledge, no part of it is false and nothing material has been concealed therefrom.

Verified at New Delhi on this............................ day of............................. 19 ........................

Deponent

**CASE LAW**

***Section 151***

**DISMISSAL OF REVIEW PETITION.**

Review petition dismissed for want of jurisdiction, observation therein unjustified and unwarranted1.

**BENEFIT OF ENHANCED COMPENSATION**

To permit payment of deficit court-fee for recovering enhanced compensation after a lapse of almost six years under its inherent jurisdiction would encourage-the practice of not paying the court-fee in the hope that as and when the valuation is determined in appeal the jurisdiction of the court can be invoked under Section 151 of the Code and the benefit of enhanced compensation can be or reaped by making good the deficit court-fee2.

**ADDITIONAL EVIDENCE.**

No cogent ground is shown to permit any additional evidence when no attempt to produce any evidence was made in any of the courts below up to the High Court or even here till conclusion of the hearing before us. The application is rejected3.

***Sections 151, 114 and 33, O. 20, R. l.***

**EXPUNGING REMARKS — STRICTURES AGAINST ADVOCATE GENERAL.**

Held that the High Court has no jurisdiction to entertain the review petition; the Judge ought not to have commented on the professional conduct of the Advocate General and that too without an opportunity for him. The observations made and aspersions cast on the professional conduct of the Advocate General not only without jurisdiction but also they are wholly and utterly unjustified and unwarranted. Appeal allowed and all the remarks made against the Advocate General expunged. (Sections 151, 114 and 33—O. 20 R. 1)4.

**CLAIMANTS PERMITTED TO CONTINUE LEGAL PROCEEDINGS IN SUIT—BECAUSE OF THAT ARBITRATION NOT STAYED.**

There is valid arbitration agreement between the parties. In view of the direction of the Supreme Court the continuation of the arbitration of proceedings in respect of the filing of the suit would not be bad. In those circumstances if the court declined to exercise its jurisdiction under Section 151 of the Code to grant stay of the proceedings of arbitration in London, the court has not acted in excess of jurisdiction or has not exercise. d its jurisdiction improperly. In such a situation the Appellate court should not normally interfere. In the premises it would have been improper to exercise any jurisdiction to interfere. There will be no stay of the arbitration in relation to the first contract only5.

1. A. M. Mathur v. Pramod Kumar Gupta, A. I. R. 1990 Supreme Court 1737: 1990 (1) J. T. 545: 1990(2) S. C. R. 110: 1990(2) S. C. C. 533.

2. Scheduled Caste Co-op Land Owning Society Ltd. v. Union of India, A. I. R. 1991 Supreme Court 730: 1991 (1) S. C. C. 174: 1990(4) J. T. 1.

3. Shiv Chander Kapoor v. Amar Bose, A. I. R. 1990 Supreme Court 325: 1989 (4) J. T. 471: 1989 Supp. (2) S. C. R. 299: 1990 (1) S. C. C. 234.

4. A. M. Matnur v. Pramod Kumar Gupta, A. I. R. 1990 S. C. 1737.

5. National Agricultural Cooperative Marketing Federation of India Ltd. v. Alimanta S. A., A. I. R. 1989 S. C. 818: 1989 (1) Com. L. J. 147: 1988 (4) J. T. 721: 1989 (103) Mad. L. W. 474.