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

+ O.M.P.(I) 10/2016

SMS PARYAVARAN LTD. & ORS Petitioners
Through Mr.Gagan Chhabra, Adv. with
Ms.Richa Narang & Ms.Vaishnavi
Rao, Adv.

versus

INTERGEN ENERGY LTD Respondent
Through Mr.Arjun Mahajan, Adv. with
Ms.Sonali Chopra, Adv.

CORAM:
HON'BLE MR. JUSTICE MANMOHAN SINGH

ORDER
% **02.05.2016**

The present petition has been filed under Section 9 of the Arbitration and Conciliation Act, 1996 as amended by The Arbitration and Conciliation (Amendment) Act, 2015 seeking the following prayer:

“stay all and every proceedings *sine die* emanating from Crl Compl. Case No. 7989/2015 bearing title M/s Intergen Energy Ltd. V. M/s SMS Paryavaran Ltd., Crl. Compl. Case No. 7990/2015 bearing title M/s Intergen Energy Ltd. V. M/s SMS Paryavaran Ltd. and Crl Compl. Case No. 7906/2015 bearing title M/s Intergen Energy Ltd. V. M/s SMS Paryavaran Ltd., which are all presently pending adjudication before the Ld. Court of Shri Deepak Kumar - II, Metropolitan Magistrate, Dwarka, Delhi and also the Company Winding Up Petition bearing Company Petition No. 155/2015 pending before this Hon'ble Court.”

Arbitral Tribunal has already been constituted. The petitioner's counsel is insisting for the said prayer. The same cannot be granted in view of Section 9(3) of the Arbitration and Conciliation (Amendment) Act, 2015. The said provision reads as under:

“9(3) Once the arbitral tribunal has been constituted, the Court shall not entertain an application under sub-Section (1), unless the Court finds that circumstances exist which may not render the remedy provided under Section 17 efficacious.”

No circumstances exist which may not render the remedy provided under Section 17 efficacious. The same cannot be entertained. The same is disposed of accordingly.

In case the petitioners wish to file an application under Section 17 of the Act, the same be filed before the Arbitral Tribunal which will be decided as per its own merit.

MANMOHAN SINGH, J.

MAY 02, 2016/jk