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

+ O.M.P.(I) 9/2016

SMS PARYAVARAN LTD. & ORS. Petitioners
Through: Mr. Gagan Chhabra, Ms. Richa Narang
and Ms. Vaishali Rao, Advs.

versus

INTERGEN ENERGY LTD Respondent
Through: Ms. Sonali Chopra, Adv.

CORAM:
HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER
% **02.05.2016**

I.A. No. 5343/2016

Exemption allowed subject to all just exceptions.

Application stands disposed of.

O.M.P.(I) 9/2016

At the outset it is pointed out by learned counsel for the petitioner that present petition has been filed by SMS Paryavaran Ltd. as petitioner no. 1 and Mr. Manimay Sengupta as petitioner no. 3, whereas cause list shows Mr. Manimay Sengupta as the lead petitioner.

Noting the above, it is clarified that SMS Paryavaran Ltd. is the lead petitioner in the present petition and Mr. Sudhir Narayan Modak,

Mr. Manimay Sengupta and Mr. Munendra Kumar Singh are petitioner nos. 2 to 4, respectively.

The present petition has been filed by the petitioner with the following prayers.

“a. 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.

b. pass such further or other order as this Hon'ble Court may deem fit and proper.”

It is the submission of learned counsel for the petitioner that despite the fact that parties are before the learned Arbitrator on a reference made by this Court in Arbitration petitions being nos. 159/2015 and 151/2015, respondent has not withdrawn the proceedings initiated by it against the petitioner, even though the petitioner has withdrawn its litigation initiated against the respondent.

I am afraid the relief of restraint order with regard to the proceedings against the petitioner before the Company Court and before the Court of

learned Metropolitan Magistrate, Dwarka cannot be granted by this Court in exercise of its power under Section 9 of the Arbitration and Conciliation Act, 1996.

Accordingly, the petition is dismissed.

V. KAMESWAR RAO, J

MAY 02, 2016

jg