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

+ **FAO(OS) (COMM) 85/2016**

IL&FS TRUST COMPANY LIMITED & ANR Appellants
Through: Mr A.S.Chandihok, Mr Abhinav
Vashisht, Sr.Advs. with Mr Jatin Pore
and Mr Aditya Dewan, Advs.

versus

**ARIA HOTELS & CONSULTANCY SERVICES
PRIVATE LIMITED & ORS** Respondents
Through: Mr Balbir Singh, Sr.Adv. with Mr Rashi
Dhir, Mr Siddharth Aggarwal, Mr
Shivendra Singh, Ms Charu Tripathi and
Ms Rubal Maini, Advs.

CORAM:
HON'BLE MR. JUSTICE BADAR DURREZ AHMED
HON'BLE MR. JUSTICE ASHUTOSH KUMAR

% **ORDER**
30.09.2016

Caveat 855/2016

The learned counsel for the caveators are present. The caveat stands discharged.

CM 36238/2016

Allowed subject to all just exceptions.

FAO(OS) (COMM) 85/2016 & CM 36237/2016

We have heard the learned counsel for the parties.

Mr Chandihok, the learned senior counsel appearing on behalf of the appellants states that a communication has already been sent to the respondents with regard to nomination of the arbitrator and constitution of the arbitral tribunal for the purposes of adjudicating the dispute between the parties. A copy of the

letter has also been handed over to Mr Balbir Singh, the learned senior counsel appearing on behalf of the respondents. That letter was issued on 29.09.2016 (i.e. yesterday). Mr Balbir Singh assures this Court that further steps would be immediately taken to have the arbitral tribunal constituted so that the arbitral tribunal can proceed with the arbitration.

He further states on instructions that till such time that the arbitral tribunal decides on the issue under an application to be filed by either party under Section 17 of the Arbitration and Conciliation Act, 1996, status quo as of today shall be maintained with regard to the status of the compulsorily convertible preference shares (both tranches).

We may also point out that with regard to the second tranche, the parties had already agreed to defer the conversion.

The appeal stands disposed of in the above terms.

The arbitral tribunal when it considers the matter under Section 17 on an application to be moved by either party would decide independently.

BADAR DURREZ AHMED, J

ASHUTOSH KUMAR, J

SEPTEMBER 30, 2016

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