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

+ O.M.P.(I) (COMM.) 25/2017

INDIA INFOLINE FINANCE LIMITED Petitioner

Through: Mr Rajat Katyal, Advocate.

versus

INNOVATIVE LIFE DISCOVERIES PVT LTD Respondent

Through: Mr Sidh Nath Tewari and Mr Shushil
Tiwari, Advocates.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

% **09.03.2017**

1. The petitioner has filed the present petition under Section 9 of the Arbitration and Conciliation Act, 1996 (hereafter the 'Act'), *inter alia*, praying that a Receiver be appointed to take possession of the equipment - "Syber Gene Microarray System – MTG Edge – EDGE System Processor, EDGE Reader and EDGE Accessory Kit" from the respondent and his agents.
2. The petitioner has averred that it was approached by the respondent for grant of a loan against the security of the aforesaid equipment. The petitioner, thereafter, advanced an amount of ₹1,50,00,000/- on interest at the rate of 14.25% p.a. In terms of the Loan Agreement between the parties, the petitioner was entitled to charge additional interest calculated at the rate of 3% p.a. in case of default.
3. It is alleged that the said loan was to be repaid in 60 monthly

instalments – 6 instalments of ₹1,82,000/- and 53 instalments of ₹3,77,300/- each. It is alleged that the respondent has failed to pay the instalments as per the schedule and, accordingly, the loan was foreclosed. It is stated that at the time of foreclosure a sum of ₹1,51,40,186/- was outstanding. The petitioner also issued a notice dated 14.12.2015 calling upon the respondent to pay the outstanding amount.

4. Notice in the present petition was issued on 19.01.2017. In the meanwhile, the petitioner was granted liberty to inspect the machinery in question and the respondent was directed to ensure full cooperation to the petitioner for the said purposes.

5. The learned counsel for the petitioner submitted that the machinery is not kept in the premises as intimated to the petitioner and the petitioner has been unable to inspect the machinery on account of non-cooperation on the part of the respondent.

6. The learned counsel for the respondent requests for an adjournment as he states that the Managing Director of the respondent company is travelling overseas.

7. In the facts and circumstances of the case, Mr Sanjay Trivedi, Collections Manager of the petitioner is appointed as a Receiver to take possession of the equipment, "Syber Gene Microarray System – MTG Edge – EDGE System Processor, EDGE Reader and EDGE Accessory Kit", which were financed by the petitioner. The Receiver is entitled to take assistance of the concerned SHO for taking over the possession of the said equipment. The concerned SHO is also directed to render all necessary assistance to the Receiver for taking over the possession of the equipment in question.

8. In the event, the respondent makes the outstanding payment to the petitioner, or in the event of any dispute, deposits the same with the Registry of this Court, the Receiver shall release the said equipment to the respondent.
9. It is clarified that the Receiver would not be entitled to sell the said equipment without securing appropriate orders from the Arbitral Tribunal.
10. The aforesaid order shall continue till conclusion of the arbitral proceedings subject to the petitioner invoking the arbitration clause and taking necessary steps for appointment of the Arbitral Tribunal within a period of two weeks from today.
11. The parties are also at liberty to approach the Arbitral Tribunal, as and when constituted, for seeking further orders. It is clarified that the respondent would be at liberty to approach the Arbitral Tribunal for modification/vacation of this order and any such application would be considered by the Arbitral Tribunal uninfluenced by any observation made by this Court in these proceedings.
12. The petition is disposed of.
13. Order *dasti*.

VIBHU BAKHRU, J

MARCH 09, 2017
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