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

+ O.M.P.(I) (COMM.) 78/2017

SUDHIR KUMAR

..... Petitioner

Through Ms.Poonam, Adv.

versus

ABW INFRASTRUCTURE LTD.

..... Respondent

Through Mr.Saurabh Dev Singh and
Mr.Shivam Rawat, Advs.

CORAM:

HON'BLE MR. JUSTICE JAYANT NATH

ORDER

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26.04.2017

1. The present petition is filed under section 9 of the Arbitration and Conciliation Act, 1996. It is stated by the petitioner that on 30.8.2008 the petitioner entered into three different MOUs with the respondent for commercial office space of 1,000 sq.feet, 1,000 sq.feet and 800 sq. feet each. The petitioner had paid a total consideration of Rs.1,98,66,000/- in respect of the three commercial spaces. Reliance is placed on terms and conditions of the MOU where the petitioner was assured return in respect of three commercial office spaces @Rs.1,90,400/-. From September 2008 to February 2015 it is urged that the petitioners have continued to give the said returns but they have now started defaulting. It is further submitted that the respondent has abandoned the project and in fact no building is being constructed. Hence, direction is sought to deposit the amount of Rs.2,42,45,200/-.
2. Learned counsel for respondent has entered appearance and accepts notice.

3. In the meantime respondent is restrained from selling, alienating any part of the property owned by the respondent in the revenue estate of village Kherki, Daula Tehsil & District Gurgaon, Haryana, without prior permission of the court. However, liberty is granted to the respondent to approach this court with appropriate alternative offer/security to secure the dues of the petitioner.

4. At this stage, learned counsel for the parties submit that they have no objection if the present dispute between the parties is referred for arbitration to the Delhi International Arbitration Centre. It is also agreed that the present petition be also referred for adjudication before the learned Arbitrator to be appointed by the Centre.

5. This petition would be treated as a petition under section 17 of the Arbitration and Conciliation Act by the learned Arbitrator. It is clarified that the above order shall remain in force subject to any modifications/clarifications/revocations which the learned Arbitrator may do as per law uninfluenced by any observations made by this court.

6. Parties to appear before the Arbitration Centre on 12.5.2017 at 2 PM. On that date the petitioner will file a statement of claim and copy of the present petition which would be treated as an application under section 17 of the Act.

7. Petition stands disposed of.

8. Dasti.

JAYANT NATH, J

APRIL 26, 2017

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