

\$~19

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

%

Judgment delivered on: 12.07.2017

+ O.M.P.(I) (COMM.) 95/2017

PNB HOUSING FINANCE LIMITED Petitioner

Through Mr. Ajay Uppal, Advocate.

versus

KATE AMIT BABAN & ORS. Respondents

Through None.

Advocates who appeared in this case:

For the Petitioner : Mr. Ajay Uppal, Advocate.

For the Respondents : None.

**CORAM:-
HON'BLE MR JUSTICE SANJEEV SACHDEVA**

**JUDGMENT
12.07.2017**

SANJEEV SACHDEVA, J. (ORAL)

1. This is a petition under section 9 of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as the Act).

2. The respondents have been served. None appeared for the respondents on 08.05.2017. None is present even today.

3. The petitioner is a finance company rendering financial/credit facilities in the form of loans.

4. It is the case of the petitioner that the respondents had approached the petitioner for seeking financial assistance for purchase of Flat No. 1101, Tower No.26, Lodha Belmondo, Dehu Road, Pune, Maharashtra-410105.

5. A loan in the sum of Rs.4,04,91,573/- crores was sanctioned vide Loan Agreement dated 29.11.2014. Loan amount of Rs.3,71,08,427/- was partly disbursed to the respondents.

6. The loan was secured by creation of an equitable mortgage by deposit of title deeds of the above referred flats in favour of the petitioner.

7. Since the project is still under construction, the balance sanctioned loan amount has not been disbursed and interest is being charged only on the amount that has been disbursed as per the agreed terms.

8. The respondents are alleged to have breached the repayment

schedule and, accordingly, the petitioner has recalled/foreclosed the loan facility granted to the respondents by its notice dated 14.02.2017.

9. This petition under Section 9 of the Arbitration & Conciliation Act seeks interim measures of protection in the form of a restraint on the respondents from disposing of, selling, alienating, transferring or creating any encumbrance, charge or third party interest, in any manner, whatsoever, in respect of Flat No. 1101, Tower No.26, Lodha Belmondo, Dehu Road, Pune, Maharastra-410105.

10. By order dated 01.03.2017, this Court had restrained the respondents from transferring, selling, encumbering or in any manner alienating the property bearing Flat No. 1101, Tower No.26, Lodha Belmondo, Dehu Road, Pune, Maharastra-410105.

11. None has appeared for the respondents to defend the petition despite service. There is no rebuttal to the case set up by the petitioner. The interim order dated 01.03.2017 is liable to be made absolute.

12. The petition is, accordingly allowed. The respondents are

hereby restrained from transferring, selling, encumbering or, in any manner, alienating or creating any third party interest in respect of property bearing Flat No. 1101, Tower No.26, Lodha Belmondo, Dehu Road, Pune, Maharashtra-410105.

13. Learned counsel for the petitioner submits that steps, in terms of Section 9(2) of the Act, have already been taken and notice invoking arbitration has already been issued to the respondents and further steps in accordance with law shall be taken for appointment of the arbitrator.

14. The petition is disposed of in the above terms.

15. Order *Dasti* under the signatures of the Court Master.

SANJEEV SACHDEVA, J

JULY 12, 2017
st