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

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Judgment delivered on: 05.07.2017

+ O.M.P.(I) (COMM.) 99/2017

PNB HOUSING FINANCE LIMITED

..... Petitioner

versus

LILADHAR JAGGANATH WARADE & ANR.

.....Respondents

Advocates who appeared in this case:

For the Petitioner : Mr. Ajay Uppal with Mr. Kanishk Arora, Advocates.

For the Respondents : None.

CORAM:-

HON'BLE MR JUSTICE SANJEEV SACHDEVA

JUDGMENT

05.07.2017

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 appears for the respondents.

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. 1202, Tower No.23, 12th Floor, Lodha Belmondo, Gahunje, Pune, Maharashtra-412101.

5. A loan in the sum of Rs.4 crores was sanctioned vide Loan Agreement dated 28.03.2014. Loan amount of Rs.2,92,25,091/- 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. Learned counsel for the petitioner submits that the arbitration clause has already been invoked.

10. 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. 1202, Tower No.23, 12th Floor, Lodha Belmondo, Gahunje, Pune, Maharastra-412101.

11. By order dated 02.03.2017, this Court had restrained the respondents from transferring, selling, encumbering or in any manner alienating the property bearing No. 1202, Tower No.23, 12th Floor, Lodha Belmondo, Gahunje, Pune, Maharastra-412101 and Saptasatij Metatech Pvt. Ltd. Survey No.879, Siddivinayak Industrial Estate, Near Maharashtra Weight Bridge, Kudalwadi, Chikhali, Pune, Maharashtra-412114.

12. 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 02.03.2017 is liable to be made absolute.

13. 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 No. 1202, Tower No.23, 12th Floor, Lodha Belmondo, Gahunje, Pune, Maharastra-412101 and Saptasatij Metatech Pvt. Ltd. Survey No.879, Siddivinayak Industrial Estate, Near Maharashtra Weight Bridge, Kudalwadi, Chikhali, Pune, Maharashtra-412114.

14. The petitioner shall take appropriate steps to ensure compliance of the provisions of section 9(2) of the Act

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

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

SANJEEV SACHDEVA, J

JULY 05, 2017
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