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

+ O.M.P.(I) (COMM.) 215/2017

BRIJ MOHAN KAPUR

..... Petitioner

Through Mr.Jeevesh Nagrath, Mr.Pratham
Sharma and Mr.Chitvan Singhal,
Advs.

versus

ABW INFRASTRUCTURE LIMITED

..... Respondent

Through Mr.Sermon Rawat, Adv.

CORAM:

HON'BLE MR. JUSTICE JAYANT NATH

ORDER

11.10.2017

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1. This petition has been filed under Section 9 of Arbitration and Conciliation Act, 1996 (*hereinafter referred to as 'the Act'*) seeking interim orders to restrain the respondent from selling, alienating, encumbering, transferring the title and parting with possession of the properties as stated in para 28 of the petition.

2. The case of the petitioner is that the petitioner agreed to advance an interest bearing loan of Rs. 2 crores to the respondent. The respondent agreed to secure the amount by a post-dated cheque for repayment of the loan amount. The loan agreement was executed on 08.08.2014. The entire loan amount was disbursed to the respondent. It was also agreed that in case of default in repayment, the respondent would sell/transfer/convey to the petitioner the following properties i.e.

(i) Unit No. 15, Ground Floor having Super Area of 634 sq. ft.,

(ii) Unit No.24, Ground Floor having Super Area of 683 sq. ft.,

(iii) Unit No.25, Ground Floor having Super Area of 683 sq. ft.,
(iv) Unit No.123, First floor having Super Area of 634 sq. ft.,
(v) Unit No. 124, First Floor having Super Area of 634 sq. ft.,
(vi) Unit No.125, First floor Area of 634 sq. ft.,
(vii) Unit No.126, First Floor Area of 634 sq. ft., and
(viii) Unit No.138, First floor having Super Area of 693 sq. ft.,
situated in "Platinum Tower", Sohna Road, Gurgaon for sale
consideration of Rs. 2, 05,00,000/-.

3. Documents as stated in the petition including the agreement to sell, allotment letter, possession letter, etc. dated 08.08.2014 were also executed in favour of the petitioner.

4. This court had on 29.05.2017 passed an interim order restraining the respondent from selling, alienating, encumbering or transferring the title or parting with possession of the above-noted properties.

5. I have heard the learned counsel for the parties.

6. The learned counsel for the respondent admits that the loan amount was taken by the respondent but he has strongly urged that he would like to file a reply to rebut the contentions of the petitioner.

7. The learned counsel for the petitioner has pointed out that they have already invoked the arbitration clause and have appointed a Retd. District Judge as the arbitrator.

8. At this stage, the learned counsel for the respondent requests that a Sole Arbitrator be appointed under the aegis of Delhi International Arbitration Centre (*hereinafter referred to as 'the DIAC'*) who will adjudicate the dispute between the parties.

9. Learned counsel for the petitioner submits that he has no objection to

the submission of the learned counsel for the respondent.

10. Accordingly, Mr.Prashanto Chandra Sen, Sr. Advocate (Mobile No.9810045291) is appointed as the Sole Arbitrator to adjudicate the dispute between the parties. The learned arbitrator shall function under the aegis of DIAC.

11. Interim order dated 29.05.2017 passed by this court shall continue till the pendency of the arbitral proceeding. Liberty is granted to the respondent to move an appropriate application before the learned arbitrator seeking modification, vacation or variation of the aforesaid interim orders passed by this court.

12. The petition stands disposed of.

JAYANT NATH, J.

OCTOBER 11, 2017/rk

