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

+ O.M.P.(I) (COMM.) 470/2016

M/S IMPROVE VYAPAAR PVT. LTD. Petitioner

Through: Mr Vikas Arora and Ms Radhika
Arora, Advocates.

versus

VVA DEVELOPERS (P) LTD. & ORS. Respondents

Through: Mr Naresh Kaushik and Mr Joymoti
Mize, Advocates.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

% **28.02.2017**

1. The petitioner has filed the present petition under Section 9 of the Arbitration and Conciliation Act 1996, *inter alia*, praying as under:-

- “(i) Direct the respondents to deposit a sum of Rs.6,38,39,149/ (Rupees Six Crores Thirty Eight Lacs Thirty Nine Thousand One Hundred Forty Nine Only) before the Hon'ble court as an interim measure with the Hon'ble Court as payable by the respondent to the petitioner;
- (ii) Restrain the respondents, its agents, assigns, nominees etc, from selling, alienating or in any manner creating any third party interest in the project situated at Village Khijuriwas, Thesil Tejara Dist Alwar, Rajasthan and V Square Mall situated at 1 Km Stone Bhiwadi Alwar Bypass, Bhiwadi Dist Alwar, Rajasthan and also upon their personal assets.”

2. It is not disputed that the parties had entered into a Memorandum of Understanding (MoU) dated 18.03.2013. The petitioner claims that in terms of the said MoU, the petitioner is entitled to receive back a sum of ₹3,19,10,760/- alongwith compensation calculated at the rate of ₹151/- per sq. ft. and interest at the rate of 18% p.a. Admittedly, the petitioner had received back a sum of ₹52,50,000/-.

3. The petitioner claims that the respondents are alienating their properties and fear that if the respondents were to sell their assets and/or create third party interests in the said assets, it would be impossible to enforce the award that may be passed in favour of the petitioner.

4. The claims made by the petitioner are disputed. However, without going into the merits of their disputes, the learned counsel appearing for the respondents states that till the arbitrator has had the opportunity to examine the petitioner's plea for an interim order, the respondents shall not alienate, sell or encumber assets atleast to the extent of ₹5 crores. The respondents are bound down to the said statement. This is subject to the petitioner applying under Section 17 of the Arbitration and Conciliation Act, 1996 within a period of four weeks of the Arbitral Tribunal being constituted. On the petitioner applying for such interim relief the Arbitral Tribunal shall consider the same uninfluenced by any observation made or order passed by this Court in these proceedings.

5. Further, the respondents are also at liberty to apply to the Arbitral Tribunal for seeking any interim orders that they may be advised, including for vacation or modification of this order.

6. The present petition is disposed of with the aforesaid observation keeping the rights of the parties open to approach the Arbitral Tribunal open.

7. *Dasti* to the parties.

VIBHU BAKHRU, J

FEBRUARY 28, 2017
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