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

+ O.M.P.(I) (COMM.) 19/2017

COUNTRY DEVELOPMENT AND MANAGEMENT
SERVICES PRIVATE LTD.

..... Petitioner

Through: Mr Kuriakose Varghese, Mr V.
Shyamohan, Mr Abir Phuhan, Ms
Smrithi Suresh and Ms Saumya
Sharma, Advocates.

versus

UTSAV HOSPITALITY PRIVATE LTD.

..... Respondent

Through

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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13.01.2017

IA No.441/2017

1. Allowed, subject to all just exceptions.
2. The application stands disposed of.

O.M.P.(I) (COMM.) 19/2017

3. The petitioner has filed the present petition under Section 9 of the Arbitration and Conciliation Act, 1996 (hereafter 'the Act'), *inter alia*, praying that the respondent be directed to secure the petitioner's claim of approximately ₹1,25,48,954/- which is allegedly due and payable by the respondent to the petitioner. The learned counsel for the petitioner has referred to the agreements entered into between the petitioner and the respondent for management of the property – hotel situated at Sushant City- Ansal API, National Highway 8, Kishangarh Road, Gegal, Ajmer

(Rajasthan) run under the name and style Country Inn & Suites by Carlson Ajmer - owned by the respondent. It, *prima facie*, appears that in terms of the agreements between the parties, the petitioner is entitled to royalty fee amounting to 2.70% of the monthly gross revenues in addition to brand marketing fee, regional marketing fee, IT Technology fee, etc.

4. The petitioner states that it issued a notice dated 22.08.2016 calling upon the respondent to pay the amounts claimed by the petitioner. The learned counsel for the petitioner states that the said notice had not been responded to by the respondent.

5. The petitioner further asserts that there is an arbitration agreement between the parties and such disputes are to be resolved by arbitration. It is further stated that the petitioner apprehends that the respondent will alienate its property and thereby frustrate the award that may ultimately be granted in favour of the petitioner.

6. After hearing the learned counsel for the petitioner, this Court is of the view that the interest of the petitioner would be adequately protected at this stage if the respondent is directed not to sell, transfer, encumber or alienate its hotel property situated at Sushant City-Ansal API, National Highway 8, Kishangarh Road, Gegal, Ajmer (Rajasthan) which is operated under the name and style Country Inn & Suites by Carlson Ajmer without a two weeks prior written notice to the petitioner. It is so directed.

7. This would enable the petitioner to seek appropriate remedies, if aggrieved.

8. Since the order passed is an innocuous one, need is not felt to issue notice to the respondent. However, the respondent is at liberty to apply.
9. The aforesaid order is subject to the petitioner taking steps for appointment of the Arbitrator within a period of four weeks from today.
10. The petitioner would be at liberty to also approach the Arbitral Tribunal, as and when constituted, for further relief as may be advised. Needless to mention that the same would be considered in accordance with law.
11. The petition is disposed of.
12. The learned counsel for the petitioner shall ensure that the copy of this order is communicated to the respondent by speed post, approved courier as well as handed personally to a responsible officer of the respondent.
13. Order *dasti* under signatures of the Court Master.

VIBHU BAKHRU, J

JANUARY 13, 2017
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