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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

COMMERCIAL ARBITRATION PETITION NO.122 OF 2016

Manoj Kasliwal & Anr. ...Petitioners

vs

Indiabulls Properties Pvt. Ltd. & Anr. ...Respondents

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Ms. Nidhi Chheda, i/b. Thodur Law Associates, for the Petitioners.

Mr. Sharan Jagtiani, a/w. Mr. Vishesh Kalra and Mr. Subit Chakrabarti,
i/b. Vidhii Partners, for Respondent No.1.

Mr. Tushar Gujjar, a/w. Mr. Deepak Singh, i/b. Solicis Lex, for
Respondent No.2.

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CORAM : S.C. GUPTE, J.

DATED: 18 DECEMBER, 2018

P.C. :

. Heard learned Counsel for the parties. This arbitration petition is filed under Section 9 of the Arbitration and Conciliation Act, 1996 ("Act"). The petition is not moved for any ad-interim relief as yet. Learned Counsel for the Petitioners submits that the Petitioners have invoked the arbitration agreement and appointed their arbitrator. It appears that the invocation letter is issued during the pendency of the present petition. Learned Counsel for Respondent No.1 informs the Court that the letter produced by the Petitioners in this behalf does not refer to any invocation of arbitration agreement as against his client. Be that as it may, since the appointment is not accepted by the Respondents, it is for the Petitioners to make an appropriate application before the

Court under Section 11 of the Act.

2. As for the merits of the application, *prima facie* it is clear from the record of the case that reliefs are sought in the present petition not only against Respondent No.1, who is the developer of the property and with whom booking money was deposited by the Petitioners for purchase of a flat, but also against Respondent No.2, who is a non-banking financial company. Reliefs are sought against Respondent No.2 under a tripartite agreement executed between the parties sometime in March 2013. Admittedly, this tripartite agreement does not have any arbitration clause. In the premises, there is no merit in the arbitration petition. The petition is dismissed. It is further clarified that dismissal of the present arbitration petition shall not come in the way of the Petitioners seeking appropriate reliefs before any other appropriate forum whether in a civil suit or in an arbitration reference. All rights and contentions of the parties on merits are kept open.

(S.C. GUPTE, J.)