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

Date of Decision: 09.07.2018

+ O.M.P.(I) 6/2018 & I.A. No.7258/2018

ASHISH MOHAN

..... Petitioner

Through: Mr. Ankit Jain with Mr. Mohit
Kumar, Advs.

versus

ANAND DIVINE DEVELOPERS PVT.
LTD & ANR.

..... Respondent

Through: Mr. Saurabh Seth with Mr. Sarthak
Malhotra, Advs.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

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RAJIV SHAKDHER, J. (ORAL)

1. I am informed by learned counsel for the parties that an Arbitrator has already been appointed by this Court to adjudicate upon the disputes obtaining between the parties.
2. Learned counsel for the parties inform me that Mr. Dinesh Dayal, former District & Sessions Judge has been appointed as the Arbitrator.
3. Counsel for the parties further agree that the captioned petition could be placed before the learned Arbitrator for passing a suitable order and that this petition can be treated by him as a petition filed under Section 17 of the Arbitration and Conciliation Act, 1996 (hereafter referred to "1996 Act").
4. I may also record that Mr. Jain, who, appears for the petitioner, says that respondent No.1 was servicing the bank debt owed to ICICI Bank by paying the requisite amount towards pre-EMI interest.

4.1 Reliance is placed on MOU dated 14.7.2014 in that behalf.

5. Learned counsel for the respondents says that the next instalment of pre-EMI interest is payable in August, 2018. It is stated at the bar by the learned counsel for the respondents, on instructions by Mr. Amit Asthana, Head of Legal Department, in respondent No.1, that the pre EMI interest for August 2018 shall also be paid.

6. In these circumstances, the captioned petition is disposed of with the following directions:

- (i) The captioned petition will be placed before the learned Arbitrator, who will pass a suitable order after hearing all concerned.
- (ii) Learned Arbitrator will treat the captioned petition as one filed under Section 17 of the 1996 Act.
- (iii) Respondents will have liberty to file a reply in the matter. For this purpose, learned Arbitrator will grant adequate time to the respondents.
- (iv) In case the petitioner wishes to file a rejoinder, similar opportunity will be given by the learned Arbitrator.
- (v) It will open to parties to canvass all legal and factual contentions *qua* the captioned petition before the learned Arbitrator.
- (vi) Respondent No.1 will pay the pre-EMI interest, which falls due in August, 2018.
- (vi) Learned Arbitrator will render his decision as to whether this obligation of respondent No.1 should continue to obtain during the course of arbitration proceedings as is contended before me

by Mr. Jain, learned counsel for the petitioner.

7. Needless to say, learned Arbitrator will decide the captioned petition at the earliest, though, not later than five weeks, after receiving a copy of the order.

8. Accordingly, no further orders are required to be passed in the matter. Pending application shall stand closed.

9. *Dasti.*

RAJIV SHAKDHER, J

JULY 09, 2018/pmc

