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

+ O.M.P.(I) (COMM.) 268/2018 & I.A.No.15062/2018

CAPITAL FIRST LTD

..... Petitioner

Through: Mr.Sanjeev Singh, Ms.Anandita Singh,
Advs. along with Mr.Akshay Upal, AR of the
petitioner

versus

KAPSONS ENGINEERS PVT.LTD & ORS. Respondents

Through: Mr.Ashish Bhagat, Mr.Akhil Suri, Advs.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

ORDER

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18.12.2018

1. This petition has been filed under Section 9 of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as the 'Act') *inter alia* praying for the following reliefs:

i) *restrain the Respondents, their agents, assignees, legal heirs etc. from selling, disposing off, transferring, alienating or creating any third party interest in the Property situated at Plot No.11, Block-E, Sector-11, Noida, U.P and Plot No. 554, Pace City-2, Sector-37, Gurgaon in any manner whatsoever, directly or indirectly;"*

2. This Court by its order dated 24.09.2018, while referring the parties to mediation, had passed the following order:

"3. In the meanwhile, the respondents are restrained from transferring, alienating or creating third party rights in the properties referred to in prayer clause (ii) of the captioned applications.

4. In case the respondents intend to lease out properties referred to in prayer clause (ii) of the captioned applications, they would, in the first instance, obtain a written consent of the

petitioner in terms of the loan agreement obtaining between them.

5. It is not in dispute that the parties have entered into a settlement agreement and that there has been a default in payment of instalments by respondent no.7.”

3. The mediation proceedings between the parties have failed. Counsel for the petitioner submits that the petitioner is in the process of appointing an Arbitrator in terms of the Arbitration Agreement between the parties.

4. The respondent has filed an application, being IA no.15062/2018, praying for modification of the order dated 24.09.2018 with respect to the stay on the property situated at Plot No.11, Block E-, Sector-11, Noida (UP).

5. Counsels for the parties agree that the interim order dated 24.09.2018 be extended by a further period of eight weeks within which the Arbitral Tribunal would be put in place in accordance with the Arbitration Agreement between the parties.

6. Accordingly, the interim order dated 24.09.2018 is extended by a further period of eight weeks. Either party shall be at liberty to file an appropriate application before the Arbitral Tribunal seeking extension /modification/variation/vacation of the interim order dated 24.09.2018 passed by this Court. The Arbitrator shall decide such application without being influenced by any observation made by this Court in its order dated 24.09.2018.

7. The petition and the application are disposed of in terms of the

above. There shall be no order as to costs.

8. The date already fixed that is, 29.01.2019 is hereby cancelled.

NAVIN CHAWLA, J

DECEMBER 18, 2018
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