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

\+ **<u>O.M.P.(I) (COMM.) 232/2016 and IA No. 14073/2016</u>**

RELIGARE FINVEST LIMITED ..... Petitioner

Through: Mr Vishal Kalra, Advocate alongwith Mr Manpreet Singh Suri, Law Officer in person.

versus

VDB WHITEFIELD DEVELOPMENT PRIVATE LIMITED AND ORS ..... Respondents

Through: Mr Gautam Narayan and Mr R.A. Iyer, Advocates.

CORAM:
HON'BLE MR. JUSTICE VIBHU BAKHRU

<u>O R D E R</u>

% **08.03.2018**

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

> "a) Pass an order to the respondents to file an affidavit giving full details and particulars of all their respective moveable, immovable, tangible and intangible assets including bank accounts and demat accounts within such time as this Hon'ble Court deems fit and proper.
>
> b) Pass an ad interim exparte order to restrain the Respondents in respect of the property bearing VDB WILLOW NO.117/21,SY NO.50 Al, 50/1A2 AND 53/1 MALLAVALI KR PURAM BANGLORE, from disposing off, selling, alienating, transferring or creating any encumbrance, charge or third party interest in any manner, whatsoever;
>
> c) restrain the Respondents in respect of the property

> bearing VDB WILLOW NO.117/21, SY NO.50 Al,SO/lA2 AND 53/1 MALLAVALI KR PURAM BANGLORE, from disposing off, selling, alienating, transferring or creating any encumbrance, charge or third party interest in any manner, whatsoever."

2. By an *ad interim* order dated 31.05.2016, the respondents were restrained from disposing of, selling, alienating, transferring or creating any encumbrance, charge or third party interest in any manner, whatsoever, in respect of the property bearing VDB Willow No.117/21, SY No.50 Al, 50/1A2 And 53/1 Mallavali Kr Puram, Banglore. The aforesaid order was passed in view of the assertion that the respondents owed substantial amounts to the petitioner.

3. Thereafter, the parties filed a joint application (IA 14073/2016). The said application came up for consideration on 10.11.2016. In the order passed on the said date, this Court recorded that as of that date, a sum of ₹17,56,64,465/- (inclusive of principal amount and interest) was due to the petitioner by the respondents. The Court further recorded the undertaking of the respondents that a sum of ₹4,93,72,646/- would be paid to the petitioner within a period of 10 days of the said application and the balance amounts would be paid as per schedule of payments as set out in paragraph four of the said joint application.

4. Admittedly, the respondents have been unable to adhere to the agreed schedule of payments. Mr Gautam Narayan, the learned counsel appearing for the respondents handed over a tabular statement, which indicates that substantial payments have been made towards the principal alongwith interest and now, only a sum of ₹8,01,70,049.22/- remains to be paid to the

petitioner. The same is disputed by the learned counsel for the petitioner. He states that as on date, a sum of ₹12,74,60,000/- is due and payable, which also includes the late payment charges.

5. Mr Gautam Narayan further submits that in the event the respondents are restrained from selling the immovable property, it would become very difficult for the respondents to repay the dues owed to the petitioner as the sale proceeds of the units in the said complex are to be generated for discharging the making the payments due to the petitioner.

6. In the given circumstances, this Court is of the view that it would not be apposite to restrain the respondents from alienating the property in question. However, the interest of the petitioner must also be protected. In the circumstances, it is directed that respondents would give at least one week prior intimation to the petitioner before selling or transferring any flat in the complex in question. The said intimation shall include details of the proposed transaction including the consideration at which such flat is proposed to be sold. The petitioner would, within the said period of one week, verify whether the consideration being charged by the respondents is as per the prevalent market rates. In the event the petitioner objects to such sale, the respondents would refrain from selling the particular unit and the same would be available to the petitioner at the stated price, which would be adjusted from the amount due to the petitioner. If no communication is received from the petitioner, the respondents would be free to sell the property, albeit on the condition that the payments realised from the same would be paid to the petitioner.

7. This order shall continue for a period of 60 days from today. If the dues of the petitioner are not discharged within the said period, the parties are at liberty to approach the Arbitral Tribunal for such further order(s) as they may be advised including the relief sought in this petition.

8. The petition is disposed of with the aforesaid observations.

VIBHU BAKHRU, J

MARCH 08, 2018
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