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

+ O.M.P.(I) 11/2018

(17) O.M.P.(I) 12/2018

(18) O.M.P.(I) 13/2018

AVVL INFRACON PRIVATE LIMITED Petitioner
Through: Mr.Amit Mehta, Mr.Jayant Kumar,
Advs.

versus

SMT. MADHU BHARTIYA Respondent
SMT. MANJU JAIN Respondent
SMT. SNEHLATA GUPTA @ LATA GUPTA Respondent
Through: Mr.Shanker Chhabra, Ms.Aakriti Jain,
Advs.
Mr.Chandrika Prasad Mishra, Mr.Deepankar
Tripathi, Ms.Richa Rajesh, Advs. for R-1

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

ORDER

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16.10.2018

1. These petitions under Section 9 of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as the 'Act') have been filed by the petitioner seeking restraint on the respondents from transferring their shares in the subject properties. The petitions are premised on the Agreement(s) to sell executed between the parties.
2. Before filing of the present petitions, the petitioner had filed a petition under Section 9 of the Act, being OMP(I) No.15/2017 titled *AVVL Infracon Pvt. Ltd. vs. Pushpa Goenka*, seeking similar relief. The petition was disposed of by this Court vide order dated 15.12.2017 on the basis of the settlement arrived at between the

parties.

3. The petitioner failed to comply with the terms of the settlement and filed an application seeking extension of time for completing the sale transaction. The said application was allowed by this Court vide order dated 07.02.2018, granting extension of time till 28.02.2018 to the petitioner to complete the sale transaction.

4. The petitioner again failed to complete the sale transaction and filed the present petition(s) under Section 9 of the Act. This Court vide order dated 20.08.2018 passed the following order:

“Learned senior counsel for the petitioner submits that the petitioner is ready and willing to perform its obligations in terms of the Agreement to Sell not only qua the respondents but also in relation to the Agreement with Ms. Pushpa Goenka. He submits that the petitioner would be able to execute the sale deeds with the respondents and Ms. Pushpa Goenka on 10th September, 2018.

The above course is agreeable to the counsel for the respondents as well. His only condition is that the sale deeds including one with Ms. Pushpa Goenka, from whom he has instructions as well, should be executed on the same day upon making of the full sale consideration amount.

The parties are directed to appear before the concerned sub-Registrar of Documents on 14th September, 2018 at 10.00 a.m.”

5. The petitioner again failed to comply with the said order and complete the sale transaction on the ground that the property had been sealed by the NDMC for non-payment of the property tax. This Court on 14.09.2018 passed the following order:

“These petitions have been filed by the petitioner seeking restraint on the respondents from transferring, alienating or creating any third party interest in the subject lands situated at Sindhora Khurd and Delhimauija.

This Court by its order dated 20th August, 2018 had directed the parties to appear before the concerned Sub-Registrar of documents today at 10.00 a.m. so as to execute the sale deeds, including one with Ms.Pushpa Goenka.

The said direction could not be complied with and the learned senior counsel for the petitioner submits that the sale deed only with respect to half of the shares of Smt. Madhu Bhartiya has been executed in the interregnum. He further submits that further sale deed(s) could not be executed as the land in question had been sealed by the NDMC on account of non-payment of property tax.

Learned counsel for the respondents submits that after 14th June, 2016, the obligation to pay the property tax was that of the petitioner. However, without prejudice to his rights, the respondents will ensure that the property is de-sealed after making payment of the property tax within a week from today.

Learned senior counsel for the petitioner, on instructions from Mr.Teupal Singh, who is the Director of the petitioner company, submits that the sale deeds, including that with Ms.Pushpa Goenka, will be executed simultaneously with all the landowners, within two weeks of the property being de-sealed. The petitioner shall file the affidavit of undertaking of the Director to this effect within two days.

In view of the statements made by the counsels for the parties and with their consent the following directions are issued:-

- i) The respondents shall get the property de-sealed after payment of the property tax dues within a week from*

today. They shall send a communication of such de-sealing to the counsel for the petitioner immediately.

- ii) The parties shall thereafter appear before the Sub-Registrar on 8th October, 2018 for the purpose of executing the sale deeds for the land falling in Sindhora Khurd Village upon payment of full sale consideration of this part of land. However, possession thereof shall be handed over to the petitioner only on execution of second set of sale deeds on 10th October, 2018.*
- iii) Subsequently, the parties shall again appear before the Sub-Registrar on 10th October, 2018 for the purpose of executing the sale deeds for the land falling in Delhimauja Village. Such sale deeds shall be executed upon payment of full sale consideration to the respondents and simultaneously handing over of the vacant unencumbered possession of the abovementioned lands by the respondents to the petitioner.*
- iv) In case the parties wish to execute such sale deeds earlier than the date above fixed, they shall be free to do so.”*

6. The respondents have filed affidavits stating that they have complied with the directions given by this Court and the property tax has been paid by them and the property stood de-sealed. They further state that after de-sealing of the property, they have repeatedly requested the petitioner to complete the sale transaction, however, with no response from the petitioner.

7. Counsel for the petitioner submits that the petitioner had sent e-mails seeking a copy of the NOC in respect of the land and mutation record as also the status report in relation to the land.

8. Be that as it may, the fact remains that the sale deeds have not been executed in spite of repeated opportunities being granted to the

petitioner in this regard. The petitioner on one pretext or the other, is refusing to execute the sale deed.

9. In view of the above, the petitioner is not entitled to any interim relief from this Court.

10. The petitions are dismissed. This shall, however, not prejudice either party in the arbitration proceedings that may be initiated by either one of them by taking recourse to law.

NAVIN CHAWLA, J

OCTOBER 16, 2018
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