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

+ **O.M.P.(I) (COMM.) 465/2016 and IA No. 14998/2016**

CHOLAMANDALAM INVESTMENT AND
FINANCE COMPANY LIMITED

..... Petitioner

Through: Mr Avinash Kumar and Mr Pradyot
Pravash, Advocates.

versus

JITENDER JAIN & ORS.

..... Respondents

Through

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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06.04.2018

1. The learned counsel appearing for the petitioner requests for a further adjournment to ascertain the correct address of the respondent.
2. The present petition has been filed under Section 9 of the Arbitration and Conciliation Act, 1996 (hereafter 'the Act'), *inter alia*, praying as under:-

- a. Allow the present petition and grant an injunction in favour of the Petitioner and against the Respondents and restrain the respondents from creating any third party rights against property bearing number No. C- 214, first, second and third floor with roof rights, Gali No: 9, Main Market, Bhajanpura, Shahdara, Delhi - 110053 ; and
- b. The present injunction be made absolute till the disposal of the subject Arbitration proceedings; and
- c. Award the costs of the present petition in favour of the Petitioner."

3. The present petition is moved on 05.12.2016 and on that date, this Court had passed an *ad interim* order restraining the respondents from selling, transferring, encumbering or in any manner alienating the property bearing No. C-214, Second and Third Floor with roof rights, Gali No. 9, Main Market, Bhajanpura, Shahdara, Delhi-110053.

4. The petition was thereafter listed on 10.02.2017. However, the respondents could not be served and the service report as indicated that they had left and sold the premises. The learned counsel appearing for the petitioner sought further time to ascertain the correct address of the respondents and at his request, the present petition was deferred.

5. It is seen that over a year has been passed and today a similar request is made once again. It is also seen that the petitioner has also not taken any steps for appointment of an arbitrator.

6. The provision of Section 9 of the Act is only meant for urgent interim orders of protection. Since the petitioner has not taken any steps for appointment of the arbitrator, it *prima facie* appears that the petitioner is not committed for adjudication of the disputes by arbitration.

7. It is well settled that if the petitioner fails to take expeditious steps for reference of the disputes to arbitration, continuance of the interim orders of protection under Section 9 of the Act would not be warranted.

8. In this view, the present petition is dismissed. The pending application is also disposed of. However, it will be open for the petitioner to take necessary steps for commencement of the arbitration proceedings/appointment of the Arbitral Tribunal. The petitioner is also not precluded from seeking such interim orders of protection from the Arbitral Tribunal as and when constituted.

VIBHU BAKHRU, J

APRIL 06, 2018

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