

\$~7

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

+ O.M.P.(I) (COMM.) 270/2017

L&T HOUSING FINANCE LTD Petitioner

Through: Mr Puneet K. Bhalla, Advocate.

versus

VIKAS GARG & ANR. Respondents

Through: Mr Jaskaran Singh proxy for Mr
Rajesh Sharma, Advocates.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

% **01.03.2018**

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) Appoint a receiver to take the possession of the property bearing no.M-8, Greater Kailash-1, New Delhi-110084.
- b) Attach the Bank Accounts of Respondents as mentioned below:
 - i) Bank Account No.0459040100001694 in J & K Bank, Greater Kailash Branch, IFSC Code-JAKA0GKLASH which is maintained by the respondent Nos.1 & 2.
 - ii) Bank Account No.50200003938200 in HDFC Bank, East of Kailash Branch, IFSC Code HDFC0001666 which is maintained by ADPS Consultants Pvt. Ltd.
 - iii) Bank Account No.198800870000290 in Punjab National Bank, Bhikajicama Place Branch, IFSC

Code PUNB0198800, which is maintained by KN Agro Foods.”

2. The learned counsel appearing for the petitioner states that although an Arbitral Tribunal has been constituted, the petitioner would nonetheless request this Court to pass the above orders as there is no machinery to enforce the orders passed by the Arbitral Tribunal. He further relied on the decision of this Court in ***AU Financiers (India) Limited v. Delhi Sweets Pvt. Ltd.: OMP (I) (Comm.) 343/2016, decided on 14.09.2016***, wherein this Court had acceded to the request for appointing a receiver in respect of the certain immovable properties.

3. The contention that there is no machinery for enforcing the orders passed by the Arbitral Tribunal is erroneous. In terms of Section 17(2) of the Act, any order passed by the Arbitral Tribunal shall be deemed to be an order of the Court for all purposes and shall be enforceable under the Code of Civil Procedure, 1908 in the same manner as it was an order of the Court. Section 17(2) of the Act is set out below:-

“(2) Subject to any orders passed in an appeal under Section 37, any order issued by the arbitral tribunal under this section shall be deemed to be an order of the Court for all purposes and shall be enforceable under the Code of Civil Procedure, 1908 (5 of 1908), in the same manner as if it were an order of the Court.”

4. Insofar as the reliance placed on the decision of the ***AU Financiers (India) Limited (supra)*** is concerned, the said order was passed in the peculiar facts and circumstances of that case and has no general obligation. In that case, the learned counsel had pleaded that the property in question

was not in use and there was an imminent threat of the properties being encroached by the third parties.

5. In view of the above, the present petition is disposed of by permitting the petitioner to approach the Arbitral Tribunal for such interim measures of protection as may be advised. Needless to state any such application nshall be considered in accordance with law.

VIBHU BAKHRU, J

MARCH 01, 2018

MK