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

+ **ARB.A. 4/2017 & IA Nos. 10694/2017**

**CHANDRASHEKHAR SAXENA
& ANR.**

..... Appellants

Through: Mr Naveen Sharma and Ms Swati
Bhushan Sharma, Advocates.

versus

**BDR BUILDERS & DEVELOPERS PVT. LTD
& ORS.**

..... Respondents

Through: Mr Sanjay Goswami, Advocate for R-
1.

**CORAM:
HON'BLE MR. JUSTICE VIBHU BAKHRU**

**ORDER
15.05.2018**

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IA No.10696/2017

1. Allowed, subject to all just exceptions.

ARB.A. 4/2017 & IA Nos. 10694/2017

2. The petitioners have challenged an order dated 28.07.2017 passed by the Arbitral Tribunal constituted to adjudicate the disputes between respondent no.1 & respondent no.2. The petitioners are aggrieved to the extent that the petitioners have been impleaded in the arbitral proceedings and further have been restrained from creating any third party rights in the properties in question, namely, Entire Second Floor along with open terraces, Hongkong Bazar, Sushant Lok-II, Gurgaon; and Upper Ground Floor, Hongkong Bazar, Sushant Lok-II, Gurgaon.

3. The learned counsel appearing for the respondents states that the

petitioners have not been impleaded in the proceedings as yet and, therefore, no grievance in this regard can be made.

4. As far as the order restraining the petitioners from alienating the subject properties is concerned, the said order was passed as the properties in question are the subject matter of disputes of a prior Agreement to Sell, which was executed between respondent no.1 and respondent nos.2 to 5. However, the petitioners have not been heard with regard to the prayer for injunction granted against them. This court is of the view that on this ground alone, the impugned order is liable to be set aside.

5. The respondents are at liberty to approach the Arbitral Tribunal under Section 17 of the Act arraying the petitioners as parties to the said application, if any such orders are sought against the respondents. Needless to state that the respondents will have full liberty to contest the said application. The Arbitral Tribunal shall pass a speaking order after considering the rival contentions.

6. Non-signatories cannot be impleaded as parties to arbitration proceedings. However, in view of the stand that the petitioners have not been impleaded as parties, no further orders are required to be passed at this stage. Needless to state that the petitioners would be liberty to take such steps as available in law, if and when any such order is passed.

7. It is clarified that this Court has not expressed any opinion as to the merits of the disputes before the Arbitral Tribunal.

8. The petition and the pending application are disposed of.

VIBHU BAKHRU, J

MAY 15, 2018/MK