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

+ O.M.P.(I) (COMM.) 447/2017

RELIANCE COMMERCIAL FINANCE
LIMITED

..... Petitioner

Through: Mr Zeeshan Ahmed, Advocate.

versus

APEX DIAGNOSTICS AND MEDICAL
IMAGING & ORS.

..... Respondents

Through

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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02.04.2018

1. The petitioner has filed the present petition, *inter alia*, praying as under:-

“a. Appoint Sh. Karthikeyan Radhakrishnan representative of the Petitioner/Applicant as a receiver on the said five machines i.e.

(i) PHILIPS EPIQ 7 HIGH END COLOR

(ii) ALLEGERS 525 FC MT

(iii) AU 480 BIO CHEMISTRY

(iv) CPC TURBOCHEM 100 FULLY AUTOMATED

(v) CARESTREAM VITA FLEX WITH DV 5700

with a direction that possession of the said machines be taken from the respondents, their agents and any other person found to be in possession of the said machines from wherever it is found and after taking inventories, the said machines be handed over to the custody of the Petitioner/Applicant or their representative with the

liberty to the Petitioner/Applicant to sell the said machines and adjust the sale proceeds thereof against their claim under the said Agreement and also direct the S.H.O. of the area concerned where the said machines is found to provide police assistance to the receiver in taking the possession of the said machines; AND/OR

- b. To direct the respondents to disclose his list of immovable properties;
- c. To direct the respondents to furnish security before this court to the extent of claim amount.”

2. The learned counsel appearing for the petitioner states that the aforementioned machines have been mortgaged to the petitioner for the loan advanced by the petitioner to the respondents.

3. The learned counsel appearing for the petitioner further submits that respondent no.2 has expired, and if present machines are sold, the petitioner would have no security left to recover its dues. He also points out that the Arbitral Tribunal has been constituted.

4. This Court is of the view that in view of Section 9(3) of the Act, it would not be apposite for this Court to entertain the petitioner's request leaving it open for the petitioner to approach the Arbitral Tribunal for any interim measures of protection that the petitioner may be advised.

5. However, since it is submitted that urgent orders are required to protect the interest of the petitioner, this Court considers it apposite to direct the respondents not to sell, transfer, encumber or alienate in any manner the machines, as indicated above, for a further period of three months from today.

6. In the meanwhile, it will be open for the petitioner to move the Arbitral Tribunal for such further orders as may be advised. The concerned respondents are also at liberty to apply for vacation/modification of this order or seek such further orders in accordance with law.

7. The petition is disposed of in the aforesaid terms.

VIBHU BAKHRU, J

APRIL 02, 2018
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