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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **O.M.P.(I) (COMM.) 480/2017**
PNB HOUSING FINANCE LIMITED

..... Petitioner

Through : Mr.Nishant Maidasani, Advocate.

versus

KISHOR BHAGWAN TARWADE & ORS.

..... Respondents

Through : None.

CORAM:
HON'BLE MR. JUSTICE YOGESH KHANNA

ORDER

% **12.02.2018**

Per proof of delivery all the four respondents have been duly served through speed post at the second address. None appears on their behalf.

The petitioner granted a loan to the respondents for the sum of Rs.2,65,35,000/- per 'loan against property' policy vide agreement No.NHL/PUN/1215/258695 dated 31.12.2015 against the equitable mortgage of immovable property bearing Shops No.18, 20, 21, 22 Lower Ground Floor, Shop Nos.38, 49, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 75 Upper Ground Floor, Sr. No.43, Hissa no.1+2+3+4+b/2, Kakade Terrace, near Ganpati Matha Temple, Warje Pune, Maharashtra as a security. The respondents did not adhere to the repayment schedule and failed to pay the installments in time. Clause No.10.8 of the agreement contains the arbitration clause between the parties and it notes as under:-

“10.8 Arbitration

Any and all disputes, claims, differences arising out of or in connection with the Loan Documents and or the performance of the Loan Documents shall be settled by arbitration to be referred to a sole arbitrator to be appointed by the PNBHFL and the award, thereupon, shall be binding upon the Parties. The place of arbitration shall be in Delhi or any other place as arbitrator may decide and shall be in accordance with the provisions of the Arbitration and Conciliation Act, 1996 and any statutory amendments thereof. The proceeding of Arbitration Tribunal shall be conducted in English language. Each party has to bear cost of representing its case before the Arbitrator. The cost of arbitration, including fees and expenses of the arbitrator, shall be shared equally by the Parties, unless the award otherwise provides.

Subject to this Article herein, the Borrower(s) further agrees that all claims, difference and disputes, arising out of or in relation to dealings/transaction made in pursuant to the Loan Documents including any question of whether such dealings, transaction have been entered into or not, shall be subject to the exclusive jurisdiction of the courts at Delhi only.”

Vide this petition under Section 9 of the Arbitration and Conciliation Act, 1996 the petitioner has sought directions against the respondent thereby restraining them from disposing of, selling, alienating, transferring or creating any encumbrance, charge or third

party interest in any manner, whatsoever, in respect of above said property till the matter is adjudicated through arbitral proceedings.

Since respondent have failed to appear despite service, the petition is allowed and till the matter is adjudicated finally through arbitral proceedings, the respondents are hereby restrained from disposing of, selling, alienating, transferring or creating any encumbrance, charge or third party interest in any manner, whatsoever, in respect of above said property.

The petition stands disposed of. Order *dasti*.

YOGESH KHANNA, J

FEBRUARY 12, 2018

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