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

+ O.M.P.(I) (COMM.) 507/2017

KAMAL KAPOOR

..... Petitioner

Through: Mr Ajay Kumar Tandon, Mr Lalit Gupta and Ms Purnima Singh, Advocates.

versus

CELEBRATION CITY PROJECTS PVT. LTD. Respondent

Through: Mr Siddharth Bhatli and Mr Rakshith Srivastava, Advocates.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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05.04.2018

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) directing the Respondent to forthwith furnish security of such sum, to produce and place at the disposal of the Court properties or the value of the same as may be sufficient to satisfy the award which may ultimately be passed in the favour of the Petitioner, and

b) restraining Respondent from creating third party rights or disposing/alienating Respondent's properties, including the Petitioner's Unit, in any manner whatsoever;”

2. The present petition was moved on 04.12.2017 and on the said date, this Court passed an *ad interim* order restraining the respondent from selling, disposing of, encumbering or alienating in any manner the area of 5000 sq. ft. (super area) on the ground floor of the project namely, Red Mall, Nehru Vikas Minar Commercial Complex, GT Road, Ghaziabad, Uttar

Pradesh till the next date of hearing. The said *ad interim* order was thereafter extended and continues to be operative. The respondent has also not filed any response to the present petition despite sufficient opportunity.

3. The learned counsel appearing for the petitioner submits that the Coordinate Bench of this Court has allowed the petitioner's application (ARB.P. 775/2017) under Section 11 of the Act and is in the process of constituting the Arbitral Tribunal. The learned counsel appearing for the petitioner submits that the *ad interim* order passed on 04.12.2017, may be made absolute till the conclusion of the arbitral proceedings. The learned counsel appearing for the respondent also states that the present petition may be disposed of by leaving all rights and contentions of the respondent open.

4. In view of the above, the present petition is disposed of by directing that the *ad interim* order passed on 04.12.2017 shall be continued till the conclusion of the arbitral proceedings or till such time as further order(s) is passed by the Arbitral Tribunal. It will be open for the petitioner to seek further orders for interim measures of protection. It would, equally, be open for the respondent to seek modification/vacation of the aforesaid order from the Arbitral Tribunal, as and when constituted. Needless to state that any such request would be considered by the Arbitral Tribunal in accordance with law. It is also clarified that all rights and contentions of the parties are reserved.

5. The petition is disposed of in the above terms.

VIBHU BAKHRU, J

APRIL 05, 2018/MK