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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

COMMERCIAL ARBITRATION PETITION (L) NO. 221 OF 2019

Diavisz Jewel Corporation

...Petitioner.

Versus

M/s M. B. Shah Exports & Ors

...Respondents

Mr. Subhash Jha, with Ms. Sanjana Pardeshi, for the Petitioner.

Mr. Vikramjit Garewal a/w Mr. Jugal Kanai, for the Respondent.

CORAM : G. S. KULKARNI, J.

DATE : 8th APRIL, 2019

P.C. :

1. Heard learned counsel for the petitioner and learned counsel for the respondent.

2. This petition is filed under Section 9 of the Arbitration and Conciliation Act, 1996 (for short, "ACA"), whereby the petitioner prays for interim relief pending arbitral proceedings. An arbitral tribunal is already appointed to adjudicate the dispute and differences between the parties as arisen under the the following Work Orders:-

Work order No.	Dated
52	01.2.2016
54	05.2.2016
55	09.2.2016
61	24.2.2016
60	23.2.2016

3. The parties are agreeable to refer these issues to the arbitral tribunal. However, Mr. Jha, learned counsel for the petitioner would submit that this Court consider the reliefs as prayed for in this petition inasmuch as respondents are in the process of creating third party rights in the property belonging to the partnership firm.

4. Learned counsel for the respondent would submit that as regards the properties which belong to the partnership firm, the details of which are set out in paragraph No.12 of the petition is not the correct position. There is dispute in regard to the property listed at Serial No.3. Learned counsel for respondent submits that that this property is taken on leave and licence, whereas learned counsel for the petitioner submits that it belongs to the petitioner. Learned counsel for the respondent submits that the property at

serial No.4 is not belonging to the partnership firm, it belongs to the wife of the partner. In regard to property at Serial No.5, it is submitted that this property is jointly owned by the partners alongwith other members of the family. The property at Sr.No.6 are the shares owned by the wife of the parter.

5. Having heard the learned counsel for the parties and having perused the record, I am of the opinion that all these issues are required to be adjudicated by the arbitral tribunal. The Petitioner is permitted to convert this petition as application under Section 17 of ACA, to be adjudicated by the arbitral tribunal. The respondents are at liberty to file reply, if they so desire, within one week of the presentation of the application under Section 17 of ACA.

6. The arbitral tribunal shall decide application under Section 17 of the ACA as expeditiously as possible and preferably within two weeks from the date of entering the arbitration reference. However, in the meantime it would be appropriate in the interest of justice that the respondents are directed not to create any third party interest in respect of properties belonging to the partnership firm. This order shall continue to operate until

Application under Section 17 of ACA is decided.

7. All contentions of the parties are expressly kept open
8. Respondents are directed to make appropriate disclosure in regard to their assets of movable and immovable properties and place it before the arbitral tribunal.
9. The petition is disposed of in above terms. No costs.

(G. S. KULKARNI, J.)

Note: The order is corrected as per order dated 22nd April, 2019.