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

COMMERCIAL ARBITRATION PETITION NO.890 OF 2018

Reliance Commercial Finance Limited	..Petitioner
Vs.	
Shree Raj Mahal Jewellers Private Limited & Ors.	..Respondents

Mr.Kishore Shriyan for Petitioner.
Mr.Raghavan Sarathy with Mr.Tejas Luniya, i/b. Thodur Law Associates
for Respondents.
Mr.D.R. Shetty, Court Receiver.

CORAM : G.S. KULKARNI, J.

DATE : 21st JANUARY, 2019

P.C.:

This is a petition under Section 9 of the Arbitration and Conciliation Act, 1996. This Court on 6 July 2018 had passed the following order:-

“7. As the Respondents have defaulted in repayment of the outstanding dues, it is just and necessary to safeguard the interests of the Petitioner. The claim of the Petitioner is over Rs.3.03 Crores (Approximately) and unless adequately protected, the Petitioner may suffer irreparable harm and injury. Balance of convenience also warrants the grant of reliefs. Hence, the following order is passed.

i. The Court Receiver, High Court, Bombay is appointed as Receiver in respect of the said mortgaged property i.e. property bearing Plot No. 8, Ground Floor, Block 16A, WEA Karol Bagh, New Delhi, with direction to take symbolic possession of the said mortgaged property and appoint the Respondents as their agents in respect of the said mortgaged property on usual terms, conditions and payment of royalty as may be fixed by the Court Receiver and on furnishing

security having regard to the terms and conditions of the Loan Agreement (Exhibit C to the Petition).

ii. In the event of the Respondents failing to accept or refusing to accept the agency within two weeks from the date of such offer by the Court Receiver, the Court Receiver shall take forcible possession of the said mortgaged property with the help of the police assistance if required and without any further notice to the Respondents. Thereafter, it would be open to the Petitioner to apply to the court for further orders including sale of the said mortgaged property by private treaty.

iii. Further, if it is found that the said mortgaged property is in occupation of any third party, i.e. other than the Respondents, then the Court Receiver shall take symbolic possession of the said mortgaged property and make a report to this Court.

iv. The Respondents shall disclose on oath the details of their moveable and immoveable (un-encumbered and encumbered) assets/ properties.

v. The Respondents, their agent/s, and/or any person/s claiming through or under them are restrained by an order of injunction from in any manner selling, transferring, disposing of, and/or alienating, encumbering or parting with possession of, or creating any rights in respect of property bearing Plot No. 8, Ground Floor, Block 16A, WEA Karol Bagh, New Delhi.

8. The Petitioner shall serve a copy of this order on the Respondents by hand delivery and also by Speed Post A. D.

9. The Arbitration Petition is accordingly made returnable on 19.07.2018.”

2. Learned Counsel for the parties inform the Court that symbolic possession of the property as described in paragraph 7(i) of the order dated 6 July 2017 is already taken by the Court Receiver.

3. The order dated 6 July 2018 has remained in operation for quite some time and thus it is necessary for the petitioner to take appropriate steps for appointment of an arbitrator.

4. Learned Counsel for the parties on instructions inform that their clients are agreeable for appointment of Mr.R.S. Bhandurge, Advocate as the learned arbitrator to adjudicate the disputes and differences between the parties.

5. This petition therefore need not be kept pending for any further adjudication. Hence the following order:-

ORDER

- (i) Mr.R.S. Bhandurge, Advocate is appointed as a sole Arbitrator to arbitrate the disputes and differences between the parties.
- (ii) The learned sole arbitrator, fifteen days before entering the arbitration reference, shall forward a statement of disclosure as per the requirement of Section 11(8) read with Section 12(1) of the Arbitration and Conciliation Act, 1996, to the Prothonotary & Senior Master of this Court, to be placed on record of this petition with a copy to be forwarded to both the parties;
- (iii) Office to forward a copy of this order to the learned Arbitrator.
- (iv) The order dated 6 July 2018 shall operate as an interim order till disposal of the arbitral proceedings.
- (v) The parties are at liberty to move a necessary application under Section 17 of the ACA for such appropriate reliefs as the parties may so desire.

- (vi) All contentions of the parties on merits of the matter are expressly kept open.
- (vii) It will be open for the parties to move a necessary application for discharge of the Court Receiver as and when necessary.
- (viii) At the first instance, the parties shall approach the learned arbitrator on 25 January 2019 at a mutually convenient time.
- (v) The petition is disposed of in the above terms. No costs.

[G.S. KULKARNI, J.]