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

+ O.M.P.(I) (COMM.) 17/2020

ZOSTEL HOSPITALITY PVT. LTD. & ORS. Petitioners

Through: Mr.Abhishek Malhotra and
Ms.Atmaja Tripathy, Advocate

versus

ORAVEL STAYS PRIVATE LTD. & ORS. Respondents

Through: Mr.Rajiv Nayar, Senior Advocate and
Mr.Sandeep Sethi, Senior Advocate
with Mr.Mohit Chadha, Ms.Vaishnavi
Rao and Mr.Kshitij Parashar,
Advocates for R-1 to R-3

CORAM:

HON'BLE MR. JUSTICE J.R. MIDHA

ORDER

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24.01.2020

I.A. 1024/2020

Allowed, subject to just exceptions.

O.M.P.(I) (COMM.) 17/2020

1. Issue notice. Learned counsels for all the three respondents accept notice and submit that the arbitration proceedings are pending before Justice A. M. Ahmadi, and the petitioner should have filed an application under Section 17 before the learned Arbitrator.
2. Learned counsel for the petitioner submits that the petitioner had filed this petition to avoid any objection to the maintainability of application under Section 17 of the Arbitration and Conciliation Act, as respondents

No.2 and 3 are not parties to the arbitration agreement.

3. Learned senior counsels for the respondent submit that the scope of Section 9 and Section 17 is the same and the learned Arbitrator is competent to hear this petition under Section 17 of the Arbitration and Conciliation Act.

4. With the consent of both the parties, this petition under Section 9 of the Arbitration and Conciliation Act is directed to be treated as an application under Section 17 of Arbitration and Conciliation Act.

5. The reply to the petition be filed before the learned Arbitrator within two weeks. Rejoinder within one week thereafter.

6. The learned Arbitrator shall fix the date of hearing with the consent of both the parties.

7. This petition is disposed of in the above terms.

8. It is clarified that this Court has not examined the case of petitioner on merits and nothing recorded herein be construed an expression on merit of the case.

9. The parties should not give any publicity to the proceedings listed before this Court today.

10. Copy of this petition be placed before the learned Arbitrator within one week.

11. Copy of this order be given *dasti* to counsel for the parties under the signatures of the Court Master.

J.R. MIDHA, J.

JANUARY 24, 2020/ds