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IN THE HIGH COURT OF DELHI AT NEW DELHI

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O.M.P.(I) (COMM.) 59/2020

M/S ANK HOTELS PVT. LTD.

..... Petitioner

Through: Mr.A. Chakraborty with Mr.Akshay
Kapoor, Advs.

versus

M/S SARVPRIYA SECURITIES PVT. LTD.

..... Respondent

Through: Mr.Rupesh Gupta with Mr.Sushmit
Mishra & Mr.Nikhil Kohli, Advs.

CORAM:

HON'BLE MS. JUSTICE REKHA PALLI

ORDER

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02.03.2020

IA No.2894/2020 (for exemption)

1. Exemption allowed, subject to all just exceptions. The application stands disposed of.

O.M.P.(I) (COMM.) 59/2020

2. This is a petition under Section 9 of the Arbitration and Conciliation Act, 1996 seeking the following reliefs:-

“a) Restrain the Respondent from converting the said property from Service Apartment/ Hotel to office spaces till the pendency of the arbitration proceeding.

b) Injunct the Respondent from dealing with, removing, disposing of, transferring, alienating or creating any third party right in the said project till the pendency of the arbitration proceeding.

c) Pass an order directing the Respondent to furnish adequate security of Rs. 2,70,00,000/- in order to protect and preserve the gravamen of dispute.

d) Pass any other order or orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.”

3. Learned counsel for the respondent, who appears on advance notice, at the outset, submits that the property in question where the respondent had initially desired that the petitioner should open service apartments/hotel has already been allotted to third parties for office and, therefore, submits that the relief as sought by the petitioner for restraining the respondent from converting the said property to office space has already been rendered infructuous. He further submits that the respondent has already approached the National Company Law Tribunal arraying the petitioner as a corporate debtor in view of the petitioner's failure to refund the advance of Rs.1.18 crores paid to him.

4. In the light of the aforesaid stand taken by the respondent, learned counsel for the petitioner, without prejudice to his rights and contentions and his specific plea that the petitioner is not a debtor as also that according to the petitioner, it is the respondent who is a defaulter, seeks leave to withdraw the present petition with liberty to take appropriate steps as permissible under law.

5. The petition is dismissed as withdrawn with liberty as prayed for.

REKHA PALLI, J

MARCH 02, 2020/gm