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

+ O.M.P. (I) (COMM) 111/2020 & I.A.3945/2020

HORIZON CREST INDIA @ ORS.

.....Petitioners

Through : Mr. Ciccu Mukhopadhyay, Senior Advocate with Mr. Saurav Agrawal, Mr. Rajat Taimni, Mr. Madhav Misra, Mr. Ribhu Garg, Mr. Akash Ray and Mr. V.K. Misra, Advocates.

versus

THREE C UNIVERSAL DEVELOPERS PVT LTD & ORS.

.....Respondents

Through : Mr. Rishi Kapoor, Advocate for R-2, 5 to 9, 11, 13 to 15, 17 to 20, 25, 32 and 33.
Mr. Rajshekhar Rao, Advocate for R-3 & 4.
Mr. Krishnendu Datta and Ms. Shivambika Sinha, Advocates for R-21.
Mr. Nitesh Jain, Advocate for R-29 and 31.
Mr. Arush Khanna and Ms. Shreya Singh, Advocates for R-35.
Mr. Anurag Ojha, Advocate for R-36.
Mr. Sanyam Saxena, Advocate for R-39.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

ORDER

20.05.2020

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[Court hearing convened *via* video-conferencing on account of COVID-19]

O.M.P.(I)(COMM)111/2020

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1. Mr. Ciccu Mukhopadhyay, who appears on behalf of the petitioners, says that the captioned petition is tied in with the main petition filed under Section 9 of the Arbitration and Conciliation Act, 1996.

1.1 According to Mr. Mukhopadhyay, the main petition is numbered as OMP (I) (COMM) No. 217/2019.

1.2 The said petition, however, is not placed before me today.

2. The submissions of the learned counsels, who represent various parties, and were present before me today, were predicated on the main petition [i.e. OMP (I) (COMM) No. 217/2019].

3. Briefly, it is Mr. Mukhopadhyay's case that OMP (I) (COMM) No. 217/2019 should be heard as the petitioner is without a security *qua* the award in issue.

4. On the other hand, Mr. Rishi Kapoor, Mr. Krishnendu Datta, Mr. Arush Khanna and Mr. Anurag Ojha, who appear for some of the respondents, contend that Section 34 petitions, which have been filed and those which are pending for scrutiny, should also be taken up for adjudication.

5. I may indicate that Mr. Rishi Kapoor represents 16 respondents [i.e. respondent No. 2, 5 to 9, 11, 13 to 15, 17 to 20, 25, 32 and 33].

5.1 Likewise, Mr. Krishnendu Datta represents respondent No. 21 and Mr. Arush Khanna represents respondent No. 35, while Mr. Anurag Ojha represents respondent No. 36.

6. Mr. Kapoor and Mr. Datta, as noticed above, say that the Section 34 petitions filed by them [i.e. OMP (COMM) Nos. 461/2019 and 475/2019] are slated for hearing on 29.06.2020.

7. Mr. Ojha and Mr. Khanna, as indicated above, have stated that they have also filed Section 34 petitions which are pending scrutiny with the Registry.

8. I may also indicate that Mr. Mukhopadhyay has stated that the petitioners do not intend to press the main petition [i.e. OMP (I) (COMM) No. 217/2019], for the moment, against the following respondents as their matters are pending for adjudication before the NCLT:

Respondent Nos.1, 12, 29, 31 and 39

9. To be noted, respondent Nos. 29, 31 and 39 are represented by the following counsels today:

Respondent Nos. 29 & 31:Mr. Nitesh Jain

Respondent No. 39: Mr. Sanyam Saxena

10. Furthermore, it may be relevant to note that Mr. Mukhopadhyay has indicated that the following respondents have been dropped from the array of parties in OMP (I) (COMM) No. 217/2019:

Respondent nos.16, 22 to 24 and 38

10.1 For this purpose, Mr. Mukhopadhyay relies upon the order dated 07.08.2019. Mr. Mukhopadhyay says that an amended memo of parties has already been filed.

11. The aforesaid indicates that only two respondents have not been represented today i.e. respondent No. 1 and 12.

12. However, that need not detain the continuation of proceedings since the petitioners do not wish to claim any relief against these respondents as their matters, as noticed above, are pending adjudication before the NCLT.

13. Since Mr. Kapoor has also brought to my notice the fact that the respondents he represents have also filed an application i.e. I.A. No.17673/2019, Mr. Mukhopadhyay says that he will file a reply to the said application within 10 days from today.

14. Furthermore, the parties will also complete pleadings *vis-a-vis* OMP (I) (COMM) No.217/2019, if not already done, before the next date of hearing.

15. Resultantly, the captioned petition is disposed of with a direction that OMP (I) (COMM) No. 217/2019 will be listed for hearing on 29.06.2020, when Section 34 petitions, to which I have made a reference above, are listed before the court.

16. The order passed today shall be placed by the Registry in OMP (I) (COMM) No. 217/2019 as well.

17. In order to facilitate the hearing of the proceedings, in OMP (I) (COMM) No.217/2019 and in the Section 34 petitions, to which I have made a reference hereinabove, learned counsel for the parties will file their written submissions not exceeding four pages each.

18. Given the fact that *vide* order dated 19.03.2020, passed in OMP (I) (COMM) No. 217/2019, notice was also issued to respondent No. 1 and 12 who are not represented today, Mr. Mukhopadhyay's clients i.e. the petitioners will take necessary steps to complete service *qua* them as well

19. The captioned petition is, accordingly, disposed of.

RAJIV SHAKDHER, J

MAY 20, 2020
Aj/KK

[Click here to check corrigendum, if any](#)