

Via video conferencing

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

+ **O.M.P.(I) (COMM.) 248/2020**

S AND S TECHNOCRATS PRIVATE LIMITED & ANR.

..... Petitioners

Through: Mr.Manish Vashisht, Mr.Sameer
Vashisht, Mr.Dhruv Rohatagi &
Ms.Urvi Kapoor, Advs.

versus

VISHNURUPA DEVELOPERS PVT. LTD. & ANR..... Respondents

Through: Mr.Anil Grover, Adv. for R-1.
Mr.Rajiv Kapur with Mr.Akshit
Kapur, Advs. for R-2.
Mr.Parvinder Chauhan, Adv. for R-3.

CORAM:

HON'BLE MS. JUSTICE REKHA PALLI

ORDER

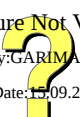
% **15.09.2020**

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

- “1.Pass an order restraining the Respondent No.1 from invoking the Bank Guarantees as mentioned in para 8 above in the petition.*
- 2. That in the event the invocation of Bank guarantee is complete by the Respondent No.2 then the Respondent No.2 Bank be restrained from releasing the funds to the Respondent No.1 with respect to the Bank Guarantees as mentioned in para 8 above in the petition;*
- 3. Pass an order restraining the Respondent No.2 from debiting any amounts from the Account of the Petitioner No.1.*

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4. *Pass an order restraining the Respondent No.2 from debiting any amounts from the Account of the Petitioner No.2.*
5. *Ex-Parte ad-interim reliefs in terms of prayers (1) and (4) above be granted;*
6. *Pass any such other and further order(s) as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case."*

2. On 26.08.2020, after hearing learned counsel for the petitioners at some length, this Court had restrained the respondent no.2 from releasing the amount in terms of the invocation of the bank guarantee by the respondent no.1. The said order has continued till date.

3. Today, learned counsel for the respondent no.1 submits, on instructions, that keeping in view that both sides have claims against each other in respect of the development work carried out at the site, it would be appropriate that the matter be decided expeditiously through arbitration. He, therefore, prays that an independent Arbitrator be appointed by this Court and submits that the interim arrangement may be continued till orders to the contrary are passed by the Learned Arbitrator. He further submits that since the bank guarantees have already been invoked, respondent no.1 will give appropriate instructions to the respondent no.2/bank to withhold encashment for the present.

4. Mr.Manish Vashisht, Advocate appearing on behalf of the petitioners is agreeable to the said suggestion.

5. Accordingly, with the consent of the parties, the petition is disposed of by appointing Justice G.P. Mittal, (Mobile No.9910384619) former Judge of this Court, as the sole Arbitrator for adjudication of disputes which have

arisen between the parties in relation to letter of award dated 03.04.2018. The respondent no.1 will remain bound to its statement not to seek encashment of the bank guarantees till any orders, to the contrary, are passed by the learned Arbitrator. The said undertaking of respondent no.1 would, however, be subject to the petitioners keeping the bank guarantees alive.

6. Before commencing arbitration proceedings, the Arbitrator will ensure compliance of Section 12 of the Arbitration and Conciliation Act, 1996. The fees of the learned Arbitrator shall be in accordance with the Schedule-IV of fees prescribed under the Delhi High Court Arbitration Centre (Administrative Costs and Arbitrators' Fees) Rules.

7. It is made clear that this Court has not considered the rival contentions of the parties on merits and it will, therefore, be open for them to file claims/counter claims and raise all pleas permissible in law.

8. A copy of this order be sent to the learned Arbitrator through electronic means.

9. The petition is disposed of in the aforesaid terms.

REKHA PALLI, J

SEPTEMBER 15, 2020

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