

Via video conferencing

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

+ **O.M.P.(I) (COMM.) 258/2020**

HARSH AZAD & ANR.

..... Petitioners

Through: Mr.A.K. Singla, Sr. Adv. with
Mr.Uttam Datt & Ms.Sonakshi Singh,
Advs.

versus

EBIX SOFTWARE PRIVATE LIMITED & ANR. Respondents

Through: Mr.Jayant Mehta with Mr.Rajat
Sehgal & Mr.Aditya Swarup, Advs.

CORAM:

HON'BLE MS. JUSTICE REKHA PALLI

ORDER

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02.09.2020

I.A. 7607/2020

1. Exemption allowed, subject to all just exceptions.
2. The applicant will file the signed and duly attested affidavits within two weeks of the Court resuming normal functioning.
3. The application stands disposed of.

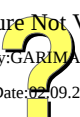
O.M.P.(I) (COMM.) 258/2020

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

“a) Pass an ad interim ex parte order directing the Respondent No.1 to furnish security in favour of the Petitioners equivalent to their aggregate claim of Rs.25 Crores; and

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b) Pass an ad interim ex parte order restraining the Respondent No.1 from holding any board meeting/shareholders meeting and/or take any decisions in relation to "Reserved Matter" in terms of Clause 4.2 read with Schedule IV of the Shareholders Agreement dated 11.02.2019; and

c) Pass an ad interim ex parte order restraining Respondent No.2 from giving any loans to the Respondent No.1 or any of its subsidiaries and/or associates and/or group companies.

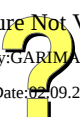
d) Pass an ad interim ex parte order directing the Respondent No.1 to provide details of all loans extended by Respondent No.2 Company along with the Statement of interest earned on such loans.

e) Pass an ad interim ex parte order restraining the Respondent No.1 from selling, disposing of, alienating, creating encumbrance/pledge on the shares held by them in Respondent No.2 Company; and

f) Pass an ad interim ex parte order restraining the Respondent No. 1 selling, disposing of, alienating, creating encumbrance, mortgage on the immoveable assets of the Respondent No. 1 Company;

g) Pass any other order as may be deemed fit and proper”

5. After some arguments, learned Senior counsel for the petitioners submits that in view of disputes having arisen between the parties and the admitted position that the same are required to be adjudicated through arbitration, the petitioners would be satisfied if an independent Arbitrator was to be appointed by this Court with liberty to the petitioners to move an application seeking interim relief before the learned Arbitrator. He however, submits that keeping in view the fact that respondent is proposing to hold a board meeting tomorrow i.e. on 03.09.2020 itself, it may be clarified that the decisions taken therein would remain subject to the outcome of the arbitration proceedings.



6. Learned counsel for the respondents has no objection to the aforesaid course of action.
7. In view of the aforesaid stand taken by the parties, the petition is disposed of by appointing Hon'ble Mr. Justice B.D. Ahmed, (Mobile No.7042205786) former Chief Justice, Jammu & Kashmir High Court as the sole Arbitrator for adjudication of disputes which have arisen between the parties in relation to the shareholders agreement and the share purchase agreement both dated 11.02.2019. It is however directed that the decision taken in the proposed board meeting of respondent no.1 will remain subject to any orders passed by the learned Arbitrator and therefore, though it will be open for the respondents to implement the decisions taken in the said board meeting, the same will abide by further orders by the learned Arbitrator.
8. Before commencing arbitration proceedings, the Arbitrator will ensure compliance of Section 12 of the Arbitration and Conciliation Act, 1996.
9. 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 before the learned Arbitrator.
10. It is further clarified that it will be open for the petitioner to move an appropriate application before the learned Arbitrator seeking interim relief on all grounds permissible in law including grounds raised in the present petition.
11. A copy of this order be sent to the learned Arbitrator through electronic means.

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

REKHA PALLI, J

SEPTEMBER 2, 2020

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