



2024:DHC:5246



\$~48

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**+ **O.M.P.(I) (COMM.) 133/2023****PNB HOUSING FINANCE LIMITED**PetitionerThrough: Mr. Sanjeev Singh, Ms. Taniya
Bansal, Ms. Mudrakshi, Advs.

versus

M/S. K. K. BANIJYA PRIVATE LIMITED & ORS.

.....Respondents

Through: None

CORAM:**HON'BLE MR. JUSTICE C. HARI SHANKAR****ORDER (O R A L)**

%

15.07.2024

1. This is a petition under Section 9 of the Arbitration and Conciliation Act 1996¹ seeking pre-arbitral interim reliefs.

2. According to the assertions in the petition, the petitioner extended financial facilities in the form of housing and non-housing loans to the respondents for a total amount of ₹ 12,60,20,477/- and in lieu thereof, the respondents created a security interest in favour of the petitioner by deposit of title deeds of properties owned by them.

3. Owing to failure on the part of the respondents to repay the loans, their account was classified as a Non-Performing Asset (NPA) on 11 April 2023. The petitioner, therefore, issued a notice to the

Signature Not Verified¹ "the 1996 Act" hereinafterDigitally Signed
By: ROHIT B. ARARIA
Signing Date: 16.07.2024
17:15:35

Signature Not Verified

Digitally Signed
By: CHANDRASHEKHARAN
HARI SHANKAR
Signing Date: 16.07.2024
17:14:33



2024:DHC:5246



respondents under Section 13(2) of the Securitization and Reconstruction of Financial Assets and Enforcement of Securities Interest Act, 2002 on the same day, i.e. 11 April 2023. Subsequently, the notice dated 11 April 2023 was recalled and a fresh notice was issued on 1 May 2023. As the said notice met with no response from the respondents, the petitioner has instituted the present petition before this Court under Section 9 of the 1996 Act.

4. The Loan Agreement between the petitioner and the respondents envisages resolution of disputes between the petitioner and respondents by arbitration and fixes the venue of arbitration at Delhi.

5. Though, in the present proceedings, the petitioner seeks various reliefs, Mr. Sanjeev Singh, learned Counsel for the petitioner, for the present, restricts his relief to prayer (iii), stating that he would adjudicate the remaining reliefs in arbitral proceedings.

6. Prayer (iii) is for a direction to Respondents 2 to 4 not to alienate or dilute the shareholding held by them in TLK Lokal Garage Pvt. Ltd.

7. This Court, on 3 May 2023, issued notice restricted to prayer (iii). Subsequently, by order dated 15 September 2023, Respondents 2 to 4 were restrained from alienating or dealing with shareholdings held by them in TLK Lokal Garage Pvt. Ltd.

8. IA 5448/2024 was thereafter moved by Respondents 1 to 4

Signature Not Verified

Digitally Signed
By: ROHIT B. ARORA
Signing Date: 16.07.2024
17:15:35

Signature Not Verified

Digitally Signed
By: CHANDRASHEKHARAN
HARI SHANKAR
Signing Date: 16.07.2024
17:14:33



2024:DHC:5246



seeking modification of the said order dated 15 September 2023. Notice was issued on the said IA on 7 March 2024. Subsequently, by order dated 28 March 2024, this Court noted that there was no restraint against respondents dealing in any immovable property and the only restraint was against alienation or dilution of the shareholding held by the respondents in TLK Lokal Garage Pvt. Ltd.

9. This matter has, thereafter, been listed before this Court on 8 July 2024, 9 July 2024, 10 July 2024, 12 July 2024 and today. On each occasion, the matter has been called out twice. The respondents have continuously been absent.

10. Apparently, the respondents do not seriously contest this petition at least for the present.

11. A notice under Section 21 of the 1996 Act already stands issued by the petitioner to the respondents on 15 May 2023.

12. Mr. Sanjeev Singh, learned Counsel for the petitioner, submits that he would be moving an application under Section 11(6) of the 1996 Act forthwith. In the circumstances, this petition is disposed of by making the interim order dated 15 September 2023 absolute, pending further orders to be passed by the learned Arbitral Tribunal as and when it is constituted.

13. It shall be open to the respondents to move the learned Arbitral Tribunal, as and when it is constituted, for vacation or modification of this order, should they so choose, and this order shall abide by the

Signature Not Verified

Digitally Signed
By: ROHIT B. ARARIA
Signing Date: 16.07.2024
17:15:35

OMP (I) (COMM) 133/2023

Page 3 of 4

Signature Not Verified

Digitally Signed
By: CHANDRASHEKHARAN
HARI SHANKAR
Signing Date: 16.07.2024
17:14:33



2024:DHC:5246



outcome of any such application, if moved.

14. Mr. Sanjeev Singh also assures that he would be moving an application before this Court under Section 11(6) of 1996 Act immediately so as to ensure that the arbitral proceedings take off. The continuance of this interim order shall be conditional on the petitioner moving a Section 11(6) petition within 10 days from today.

15. Failure on the part of the petitioner to move an application accordingly would result *ipso facto* vacation of this order.

16. This petition stands disposed of in the aforesaid terms, with no orders as to costs.

C. HARI SHANKAR, J.

JULY 15, 2024

dsn

Click here to check corrigendum, if any

Signature Not Verified

Digitally Signed
By: ROHIT B. RARI
Signing Date: 16.07.2024
17:15:35

OMP (I) (COMM) 133/2023

Signature Not Verified

Digitally Signed
By: CHANDRASEKHARAN
HARI SHANKAR
Signing Date: 16.07.2024
17:14:33

Page 4 of 4