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

+ **O.M.P.(I) (COMM.) 106/2024**

NIVEDITA MEHRA

..... Petitioner

Through: Mr. Gaurav Gupta, Mr. Tushar
Mudgil & Mr. Kushak Garg,
Advocates.

versus

AMBIENCE PRIVATE LIMITED

..... Respondent

Through: Mr. P.K. Agrawal & Mr. Akshay
Chitkara, Advocates. [M:-
8285230770]

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

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08.04.2024

I.A. 7924/2024(Exemption)

Exemption allowed, subject to all just exceptions.

The application stands disposed of.

O.M.P.(I) (COMM.) 106/2024 & I.A. 7923/2024

1. The petitioner has filed this petition under Section 9 of the Arbitration and Conciliation Act, 1996 [“the Act”], in anticipation of arbitral proceedings between the parties under an agreement dated 11.04.2017 entitled “Apartment Allotee(s) Arrangement” [“the Agreement”].

2. The agreement contains an arbitration clause [clause 13] which



provides for arbitration in New Delhi. Disputes having arisen between the parties, the petitioner invoked arbitration by a communication dated 19.03.2024. Mr. Gaurav Gupta, learned counsel for the petitioner, states that the petitioner has received a reply thereto on 05.04.2024, after filing of the present petition.

3. Mr. P.K. Agrawal, learned counsel, appears on behalf of the respondent on advance notice, and submits that an arbitrator may be appointed in these proceedings itself, and the present petition may be considered as an application under Section 17 of the Act before the learned arbitrator. He submits that, until the learned arbitrator has had an opportunity to consider the application, at least for *ad interim* orders, the respondent will reserve one apartment in “*Tiverton Ambience Residential Apartment Complex at Sector-50, Noida, Uttar Pradesh*”, similar to the apartment which is the subject matter of the Agreement, pending further orders of the learned arbitrator.

4. Mr. Gupta is also agreeable to such a course. Mr. Gupta also states that the petitioner would like to place certain further documents in support of the application, before the learned Arbitrator.

5. In view of the above, with the consent of learned counsel for the parties, the petition is disposed of with the following order:

- a. The disputes between the parties, under the Agreement dated 11.04.2017, are referred to the arbitration of Hon’ble Mr. Justice R.K. Gauba, former Judge of this Court [Tel: 9650411919].
- b. The arbitration proceedings will be conducted under the aegis of Delhi International Arbitration Centre, Shershah Road, New Delhi- 110503 [“DIAC”]. The arbitration will be governed by the Rules of



DIAC, including as to the remuneration of the learned arbitrator.

- c. The learned arbitrator is requested to furnish a declaration in terms of Section 12 of the Act, prior to entering upon the reference.
 - d. The present petition may be treated as an application under Section 17 of the Act before the learned arbitrator. An additional affidavit of the petitioner in this regard be served upon Mr. Agrawal within one week, and placed on the file of the learned arbitrator immediately upon his entering upon the reference. The respondent will file its reply thereto, within three weeks thereafter or immediately after the learned arbitrator enters upon the reference, whichever is later. The parties may request the learned arbitrator to take up the application expeditiously, at least for consideration of *ad interim* orders.
 - e. Until such consideration, the respondent is bound down to the undertaking recorded in paragraph 3 hereinabove.
6. The petition is disposed of in terms of the above.

PRATEEK JALAN, J

APRIL 8, 2024

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