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

+ O.M.P.(I) (COMM.) 113/2024 & I.A. 8485/2024

SUBHASH RANA & ANR.

..... Petitioners

Through: Mr. Vipul Rana, Mr. Ankur
Mishra, Advocates.

versus

ORGANIC SPACE (JV) AND ORS.

..... Respondents

Through: Mr. Dhananjai Jain, Mr. Abhinav
Bansal, Mr. Bhoop Singh,
Advocates for R-1 to 4.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

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16.04.2024

I.A. 8485/2024 (for exemption)

Exemption allowed, subject to all just exceptions.

The application stands disposed of.

O.M.P.(I) (COMM.) 113/2024

1. The petitioners have filed this petition under Section 9 of the Arbitration and Conciliation Act, 1996 [“the Act”], seeking interim measures of protection in anticipation of arbitration proceedings under a Memorandum of Understanding dated 23.05.2023 [“MoU”] between the petitioners and respondent Nos. 2 to 4.

2. Learned counsel for the petitioners states that the petitioners wish to initiate arbitration proceedings for recovery of an amount of Rs. 61 lakhs paid by them to respondents Nos. 2 to 4 in connection with the said



MoU. The MoU was for the sale of shares in respondent No. 1 – Company, which alongwith respondent Nos. 2 to 4 owns immovable property in Ghaziabad, Uttar Pradesh. Learned counsel for the petitioners states that the property documents of respondent Nos. 1 to 4 were found to be discrepant and they, therefore, seek a refund of the earnest money paid.

3. After some hearing, learned counsel for the petitioners and learned counsel for respondent Nos. 1 to 4, who is present on advance notice, agree that the disputes between them may be referred to arbitration and the petitioners may approach the learned arbitrator for interim relief.

4. In view of the above, and with the consent of learned counsel for the parties, the petition is disposed of with the following directions:

- A. The disputes between the petitioners and respondent Nos. 1 to 4 are referred to arbitration to be held under the aegis of Delhi International Arbitration Centre, Shershah Road, New Delhi-110503 [“DIAC”].
- B. Although respondent No. 1 was not a party to the MoU, learned counsel for respondent Nos. 1 to 4 states that respondent No. 1 will participate in the arbitration proceedings as it will be affected by any award passed.
- C. DIAC is requested to nominate an arbitrator from its panel. The arbitration will be governed by the Rules of DIAC, including as to the remuneration of the learned arbitrator.
- D. The learned arbitrator is requested to furnish a declaration under Section 12 of the Act, prior to entering upon the reference.



E. The present petition will be treated as an application under Section 17 of the Act before the learned Arbitrator. Respondent Nos. 1 to 4 may file a reply to the application within two weeks from today or immediately upon the learned arbitrator entering into reference, whichever is later.

F. The parties may approach the learned arbitrator to consider the Section 17 application expeditiously, at least on the question of *ad-interim* orders.

5. It is made clear that this Court has not decided the question of liability of respondent No. 1 in terms of the MoU. It is also made clear that this Court has not made any comment upon the merits of the matter or upon the petitioners' case for *ad-interim* relief. The parties are free to agitate their respective rights and contentions before the learned arbitrator.

PRATEEK JALAN, J

APRIL 16, 2024
“*Bhupi*”/