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

+ **O.M.P.(I) (COMM.) 188/2023**

**ANGLE INFRASTRUCTURE PVT LTD
THROUGHT ITS DIRECTOR**

..... Petitioner

Through: Ms. Bina Gupta, Ms. Sheena
Taqui, Ms. Akansha Saini and Mr.
Shiv Vinayak Gupta, Advocates.

versus

**M/S CAPITAL BUILDERS PVT LTD.
THROUGH ITS PROPRIETOR
MR. ASHOK MANCHANDA & ORS.**

..... Respondents

Through: Mr. Abhinav Sharma, Advocate for
R-1.
Mr. Anil K. Kher, Sr. Advocate
with Mr. Ankur Gosain and Ms.
Chakshu Thakral, Advocates for R-
3.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

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01.02.2024

1. The petition, under Section 9 of the Arbitration and Conciliation Act, 1996 [“the Act”], has been filed for interim measures of protection during the pendency of arbitral proceedings arising out of the Agreement dated 05.06.2012 between the parties titled “*Development Rights Agreement*”.

2. The learned Arbitrator adjourned the proceedings *sine-die* by an order dated 07.05.2022 as a petition under Section 14 of the Act [O.M.P.



(T) (COMM.) 75/2022], has been filed before this Court by the petitioner.

3. Ms. Bina Gupta, learned counsel for the petitioner, states that the said petition has been filed on account of the fact that the learned Arbitrator [Hon'ble Mr. Justice Jagdish Singh Khehar, former Chief Justice of India] had dealt with the matter at the stage of proceedings under Section 11 of the Act, and passed an order dated 08.03.2019 in Civil Appeal Number 2611/2019. Ms. Gupta submits that the petitioner has no objection to the learned Arbitrator continuing in the proceedings, but filed the petition on an apprehension that the respondent No.3 may object to any Award passed by the learned Arbitrator on this ground. Mr. Anil K. Kher, learned Senior Counsel for respondent No.3, submits categorically that respondent No.3 also has no objection to the arbitration proceedings being continued by the learned Arbitrator, but reserves its right to proceed with an application already filed by it under Section 16 of the Act. The said application is not predicated upon the identity of the learned Arbitrator, but upon the question of whether there is an arbitrable dispute between the parties.

4. Ms. Gupta states that in O.M.P. (T) (COMM.) 75/2022, the Court has called for an affidavit of respondent No.3, and the case is next listed on 27.02.2024. Mr. Kher states that respondent No.3 will file an affidavit in terms of the order in O.M.P. (T) (COMM.) 75/2022 before the next date of hearing.

5. The Arbitral Tribunal has admittedly been constituted and, in view of the circumstances mentioned above, it seems quite likely that the learned Arbitral Tribunal will be able to resume proceedings very soon.

6. In this view of the matter, this petition is disposed of with the



direction that it will be treated as an application under Section 17 of the Act before the learned Arbitrator. Subject to any orders passed by the learned Arbitrator on the said application, Mr. Kher states that the position, as mentioned in paragraph 4 of the order dated 02.06.2023, will continue.

7. At Mr. Kher's request, the order dated 02.06.2023 is reiterated to the effect that the pendency of the arbitral proceedings will not come in the way of any other proceedings pending against the petitioner whether civil or criminal.

8. The petition is disposed of with the aforesaid observations. The petitioner will be at liberty to apply for revival of the proceedings, if necessary.

PRATEEK JALAN, J

FEBRUARY 1, 2024

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