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

+ O.M.P.(I) (COMM.) 299/2020 & I.A. 8675/2020

INDIABULLS HOUSING FINANCE LTD.Petitioner

Through: Mr. Ankit Banati & Mr. Abhay
Agnihotri, Advocates.

versus

EPITOME RESIDENCY
PRIVATE LIMITED & ORS.

.....Respondents

Through: Mr. Wattan Sharma, Advocate.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

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09.07.2024

1. By way of this petition under Section 9 of the Arbitration and Conciliation Act, 1996 [“the Act”], the petitioner seeks interim measures of protection in anticipation of arbitration proceedings between the parties under a loan agreement dated 26.05.2018, deed of hypothecation and deed of mortgage dated 14.12.2018.

2. Mr. Ankit Banati, learned counsel for the petitioner, states that insolvency proceedings had been commenced against respondent No. 1, but have been closed and the moratorium has been suspended. However, as far as respondent Nos. 2 and 3 are concerned, personal insolvency proceedings are in progress and a moratorium is in place under Section 95 of the Insolvency Bankruptcy Code, 2016 [“IBC”].

3. Mr. Wattan Sharma, learned counsel, enters appearance on behalf



of respondent No. 1, and submits that the disputes may be referred to arbitration in this petition itself. Mr. Banati has no objection to this course of action.

4. As the moratorium is in operation at present against respondent Nos. 2 and 3, the following order is passed *qua* the petitioner and respondent No. 1 for the present, with the consent of learned counsel for the parties:

- A. The disputes between the parties under the loan agreement dated 26.05.2018, deed of hypothecation and deed of mortgage dated 14.12.2018, are referred to arbitration of Hon'ble Ms. Justice Indira Banerjee, former Judge, Supreme Court of India [Tel:- 9560808777]. The arbitration will be held under the aegis of Delhi International Arbitration Centre, Shershah Road, New Delhi- 110503 ["DIAC"], and will be governed by the Rules of DIAC, including as to the remuneration of the learned arbitrator.
 - B. The learned arbitrator is requested to furnish a declaration under Section 12 of the Act, prior to entering upon the reference.
 - C. The present petition will be treated as an application under Section 17 of the Act before the learned arbitrator. The petition and reply filed by the respondents will be placed before the learned arbitrator for adjudication.
 - D. The statement of the respondents, recorded in paragraph 4 of the *ad interim* order dated 28.09.2020, will continue until the learned arbitrator has had an opportunity to consider the application under Section 17 of the Act.
5. It is made clear that this Court has not entered into the merits of the



controversy, even on *prima facie* basis.

6. The petition stands disposed of in these terms.

JULY 9, 2024
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PRATEEK JALAN, J