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

+ **O.M.P.(I) (COMM.) 166/2024 & I.A. 30177/2024.**

MR SATISH KUMAR KOHLI AND ORS. Petitioners
Through: Mr. Rajesh Raina, Mr. Pallav
Mongia, Mr. Anubhav Mishra, Mr.
Vijay Deora & Mr. Ritik Sharma,
Advocates.

versus

M/S CENTIUM HOMES PVT LTD Respondent
Through: Mr. Vaibhav Mahajan, Advocate.

CORAM:
HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER
22.05.2024

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I.A. 30178/2024(Exemption)

Exemption allowed, subject to all just exceptions.

The application stands disposed of.

O.M.P.(I) (COMM.) 166/2024

1. Issue notice. Mr. Vaibhav Mahajan, learned counsel, accepts notice on behalf of the respondent.
2. The petitioners have filed this petition under Section 9 of the Arbitration and Conciliation Act, 1996 [“the Act”], for interim measures of protection in anticipation of arbitration proceedings between the parties under a joint collaboration agreement dated 19.09.2020 [“the Agreement”].



3. The petitioners are the owners of the subject property [A-5, *Greater Kailash Enclave Part-I, New Delhi-110048*]. By way of the Agreement, the respondent was granted the right to develop the property, subject to terms and conditions contained therein. The Agreement broadly contemplated that the respondent would construct a property comprising of a basement, stilt parking and four floors. In lieu of the construction costs to be borne by it, the respondent was entitled to sell the second floor of the constructed building and proportionate share in the land, whereas the rest of the property was to fall in the share of the petitioners.

4. The Agreement contains an arbitration clause [Clause 49], which provides that disputes under the Agreement shall be settled by arbitration. New Delhi has been designated as the place of arbitration.

5. Disputes having arisen between the parties, the respondent invoked arbitration by notice dated 31.01.2024. The petitioners have replied to the notice on 01.03.2024. I am informed by Mr. Mahajan that the respondent has also instituted a petition under Section 11 of the Act before this Court, which has, however, not been numbered or listed yet.

6. It is clear from the contents of the present petition that the petitioners also have certain claims against the respondent, for which they seek adjudication by arbitration.

7. Learned counsel for the parties therefore request that the disputes between them be referred to arbitration in these proceedings itself.

8. Having regard to this position, and with the consent of learned counsel for the parties, the petition is disposed of with the following directions:

a. The disputes between the parties under the joint collaboration



agreement dated 19.09.2020, are referred to arbitration of Hon'ble Mr. Justice Rajiv Sahai Endlaw, former Judge of this Court [Tel: 9717495002].

- b. The arbitration will held under the aegis of Delhi International Arbitration Centre, Sher Shah Road, New Delhi-110503 ["DIAC"], and 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 under Section 12 of the Act, prior to entering upon the reference.
- d. The present petition will be treated as an application under Section 17 of the Act, before the learned Arbitrator. Mr. Mahajan states that the respondent also seeks certain interim measures of protection, for which it will file an application before the learned Arbitrator. The respondent is directed to serve a copy of the proposed application upon the learned counsel for the petitioners within one week from today. The parties will file their replies to each other's applications, before the learned Arbitrator, within two weeks after service, or immediately upon the learned Arbitrator entering into the reference, whichever is later.
- e. The parties may request the learned Arbitrator for expeditious hearing of the applications under Section 17 for the purposes of *ad interim* orders.

9. Until the learned Arbitrator has an opportunity to consider the applications under Section 17, Mr. Mahajan states that *status quo* will be maintained with regard to the title and possession of the subject property. The respondent is bound down to this statement. Any action by the



respondent with regard to the subject property, shall be subject to the orders of the learned Arbitrator.

10. Parties also agree that the petitioners may inspect the subject property on 27.05.2024 at 11:30 AM.

11. It is made clear that all rights and contentions of the parties are left open for adjudication by the learned Arbitrator. They may also seek variation, vacation or modification of this order by the learned Arbitrator.

12. The petition is disposed of these terms.

PRATEEK JALAN, J

MAY 22, 2024

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