



\$~38

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

*Date of decision:-28<sup>th</sup> May, 2024.*

+ **O.M.P.(I) (COMM.) 171/2024**

MR. NIKHIL KUMAR ANAND

..... Petitioner

Through: Mr. Tanmaya Mehta, Mr. Arpit Kumar Singh, Mr. Kartikeya Sharma and Mr. Kunwar Vishal Singh, Advocates. (M: 9731424935)

versus

MR. HRIDEY VIKRAM BHATIA & ORS.

..... Respondents

Through: Mr. Sacchin Puri Senior Advocate with Mr. Sarthak Gupta, Ms. Shweta Arora, Ms. Prachi Jaiswal, Mr. Shivam Pandey, Mr. Roshan Kumar Jha & Mr. Kunwar Vishal Singh, sAdvocates. (M: 8826615068)

**CORAM:**

**JUSTICE PRATHIBA M. SINGH**

**Prathiba M. Singh, J. (Oral)**

1. This hearing has been done through hybrid mode.

**I.A.30693/2024 (for exemption)**

2. Allowed, subject to all just exceptions. Application is disposed of.

**O.M.P.(I)(COMM.) 171/2024**

3. The present is a petition filed on behalf of the Petitioner-Mr. Nikhil Kumar Anand under Section 9 of the Arbitration and Conciliation Act, 1996 (*hereinafter, the 'Act, 1996'*). The Petitioner vide the present petition is seeking interim reliefs with respect to the term sheet dated 29th March, 2023 (*hereinafter, 'term sheet'*) executed between the parties herein as also



certain documents dated 30th March, 2023.

4. It is stated that the Petitioner entered into an agreement on 29th March, 2023 called as the term sheet for taking over the Respondent No. 2 company by the name M/s Splendor Information Technology Private Limited. Pursuant to the term sheet, the Petitioner paid a sum of Rs.2 crores, which is not disputed.

5. It is further stated that certain documents dated 30<sup>th</sup> March, 2023 were executed between the parties therein, as per which, it was *inter alia* agreed between the parties that the Respondents are restrained from making any changes in the shareholding of the Respondent No. 2 company. The documents are further stated to restrain the Respondents from backing out of the term sheet as also restrain the Respondents from carrying out any construction in the property-Plot No. 06 in Sector 142, Noida, on institutional land admeasuring 40,315.80 sq. mtrs (*hereinafter, 'subject land'*).

6. However, according to the Petitioner, the said term sheet agreement did not fructify and the Respondent No.1 returned the entire sum of Rs.2 crores between 15th May, 2023 till 12th July, 2023.

7. The Petitioner's grievance in the present petition is that, contrary to the term sheet as also the documents dated 30<sup>th</sup> march, 2023, the Respondent No. 1 is now going ahead with the project with some third party and is launching a new project by the name *Splendor Gem* on the subject land.

8. The prayer in the present petition is for restraining the Respondents from cancelling the term sheet or from backing out of the said term sheet.

9. Mr. Tanmaya Mehta, Id. Counsel appearing for the Petitioner submits that his client is entitled to seek specific performance and other reliefs as



mentioned in the term sheet.

10. The submission on behalf of the Respondent is that various conditions were to be fulfilled prior to the term sheet taking the shape of a final agreement and the said agreement was not executed. Ld. Counsel further states that, in fact, the sale consideration was yet to be finalised. It is, thus, submitted that in the present petition, no relief is liable to be granted.

11. A perusal of the term sheet would show that there were certain terms and conditions that were entered into, even prior to the drawing up of the term sheet. The term sheet is for a consideration of Rs. 90 crores, out of which Rs. 2 crores was paid and has been returned. Further, the term sheet is in the nature of an initial contract, which has been entered into between the parties and there were mutual obligations, which were to be given effect to and undertaken.

12. The term sheet consists of an arbitration clause and the jurisdiction clause, which are extracted below.

**“18. Arbitrator**

*As per Arbitration Act with seat at New Delhi by a Sole Arbitrator appointed jointly by the Sellers and the Purchaser*

**19. Jurisdiction**

*Subject to Arbitration, courts at New Delhi shall exercise jurisdiction.”*

13. According to the Petitioner, the term sheet dated 29th March, 2023 is to be read with two letters dated 30th March, 2023, which modify the term sheet. The above stated clauses in the term sheet specifies New Delhi as the seat of arbitration with a sole arbitrator to be appointed.

14. In the present case, the Court, at this point, is not inclined to grant any



interim relief under Section 9 of the Act, 1996 prior to completion of the pleadings. In the opinion of this Court, the entire dispute ought to be relegated to the sole arbitrator before whom the parties may seek interim relief, if so advised.

15. Accordingly, **Justice N. V. Ramana (Retd. Chief Justice of India) (M-8595614283)** is appointed as the sole arbitrator in the matter. The present petition under Section 9 of the Act, 1996 may be transmitted to the Id. Arbitrator to be considered as an application under Section 17 of the Act, 1996. The Id. arbitrator is free to proceed in accordance with law.

16. The Registry is directed to communicate this order to **Mr. G. Sudhakara Rao, P.S. to Justice N.V. Ramana (M-01123794771, 01123794772)** as also to the email address-[pstonvr@gmail.com](mailto:pstonvr@gmail.com). This order further, shall be communicated on the address- 2, Tughlak Road, New Delhi-110011.

17. The arbitration proceedings shall take place under the aegis of the DIAC, under the Rules of DIAC. The fee of the Id. Sole Arbitrator shall be as per the Fourth Schedule of the 1996 Act, as amended by the DIAC Rules, 2023.

18. List before the DIAC on 15th July, 2024. Let a copy of the present order be emailed to Coordinator, DIAC on the email id-[delhiarbitrationcentre@gmail.com](mailto:delhiarbitrationcentre@gmail.com).

19. The petition is disposed of in the above terms.

**PRATHIBA M. SINGH  
JUDGE**

**MAY 28, 2024/dk/rks**