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

+ O.M.P.(I) (COMM.) 204/2024 & I.A. 31725/2024 (*stay*), I.A. 32680/2024 (*directions*)

ARUN VOHRA & ORS.

.....Petitioners

Through: Mr. Keshav Sehgal, Mr. Shivam Gaur, Mr. Kshitij Joshi, Mr. Aryan Kumar, advocates [9999989899].

versus

HARISH KUMAR & ORS.

.....Respondents

Through: Mr. Fahad Malik, Advocate for Respondent no.1.
Mr. Aashesh Gupta, Advocates for R-2.
Mr. Sanjeev Kumar, Advocate for R-3.
Mr. S.S. Bhatia, Advocate for R-4 and 5.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

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09.07.2024

1. The petitioners have filed this petition under Section 9 of the Arbitration and Conciliation Act, 1996 ["the Act"], for interim measures of protection under an agreement dated 16.08.2021 entitled "Constructions/Collaboration Deed" ["the Agreement"]. The parties to the Agreement are the seven petitioners, and respondent No. 1 through his proprietorship concern – M/s Harish Estate.
2. The Agreement concerns development of an immovable property



owned by the petitioners, being B-1/48, Malviya Nagar, New Delhi, 110017. The Agreement contains an arbitration clause [Clause 23] which provides for resolution of disputes by arbitration to be held at New Delhi.

3. According to the petitioners, the respondent No. 1 has not completed the work required under the Agreement, and has purported to sell not just the third floor of the premises, which fell to his share under the Agreement, but has also entered into agreements with regard to second floor.

4. Respondent Nos. 2 to 5 claim to be *bona fide* purchasers of the second and third floor of the property. According to the respondents, the Agreement annexed to the petition is not the actual agreement between the petitioners and the respondent No. 1, and that respondent No. 1, in fact, had been granted the rights over the second and third floor of the premises.

5. Notice was issued in this petition on 14.06.2024, and an *ad interim* order was passed directing the parties to maintain *status quo* vis-à-vis title and possession of the property until the next date of hearing.

6. In the course of hearing today, learned counsel for respondent No. 1 submits that an attempt may be made to settle the disputes through mediation, failing which the disputes be referred to arbitration in these proceedings itself. This course of action is acceptable to learned counsel for the petitioners also. Learned counsel for the other respondents, although they are not parties to the Agreement, also submit that their rights and interest will be affected by the proceedings in mediation or arbitration. Therefore, respondent No. 2 to 5 would also like to join the mediation/arbitration proceedings.



7. Having regard to the aforesaid submissions, the petition is disposed of with the following directions:

- A. Disputes between the parties are referred to mediation under the aegis of Samadhan, Delhi High Court Mediation and Conciliation Centre, Shershah Road, New Delhi-110503. Parties may appear before the learned mediator on 15.07.2024.
- B. In the event the mediation proceedings are unsuccessful, disputes between the parties will be adjudicated by arbitration of Hon'ble Ms. Justice Asha Menon, former Judge of this Court [Tel: 9910384664], to be held under the aegis of Delhi International Arbitration Centre, Delhi High Court, Shershah Road, New Delhi ["DIAC"].
- C. DIAC and the learned arbitrator are requested to defer the arbitration proceedings until 31.08.2024, to enable the parties to reach a mediated settlement, if possible. They may commence the arbitral proceedings thereafter, at the request of any party.
- D. The arbitration proceedings will be governed by the Rules of DIAC, including as to remuneration of the learned Arbitrator.
- E. The learned Arbitrator is requested to furnish a declaration under Section 12 of the Act, prior to entering upon the reference.
- F. In the event arbitration is necessary, the parties will be free to make applications under Section 17 of the Act before the learned Arbitrator.
- G. The interim order passed on 14.06.2024 will govern the parties, subject to any orders that may be passed by the learned Arbitrator.
- H. It is made clear that parties are free to agitate their respective rights



and contentions before the learned Arbitrator. This Court has not expressed any view thereupon.

8. The petition, alongwith all pending applications, stands disposed of in the terms above.

PRATEEK JALAN, J

JULY 9, 2024

“Bhupi”/