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

+ O.M.P.(I) (COMM.) 211/2024, I.A. 32200/2024 & I.A. 32296/2024

M/S CLIX CAPITAL SERVICES PVT. LTD.Petitioner

Through: Mr. Puneet Raj Banderwal, Mr. Ravi Shankar Garg, Ms. Mamta Garg, Mr. Chanakya Verma, Advocates [M:9654121121]

versus

M/S ATRIUM NEWGEN DIAGNOSTICS

& ORS.

.....Respondents

Through: Mr. N. Mahabir and Ms. Noopur Biswas, Advocates.

+ O.M.P.(I) (COMM.) 213/2024 & I.A. 32228-32229/2024

M/S CLIX CAPITAL SERVICES PVT. LTD.Petitioner

Through: Mr. Puneet Raj Banderwal, Mr. Ravi Shankar Garg, Ms. Mamta Garg, Mr. Chanakya Verma, Advocates [M:9654121121].

versus

M/S UHEALTH INDIA PRIVATE LIMITED

& ORS.

.....Respondents

Through: Mr. N. Mahabir and Ms. Noopur Biswas, Advocates.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

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04.07.2024



1. The petitioner has filed these petitions under Section 9 of the Arbitration and Conciliation Act, 1996 [“the Act”], for interim measures of protection in anticipation of arbitration proceedings under agreements with regard to loans for purchase of medical equipment. The loan sanction letter in O.M.P.(I) (COMM.) 211/2024 is dated 19.09.2022 and in O.M.P.(I) (COMM.) 213/2024 is dated 22.02.2023. In both the cases, the parties also entered into facility-cum-hypothecation agreements and deeds of guarantee on 30.09.2022. The agreements contemplate resolution of disputes by arbitration.

2. According to the petitioner, the respondents in both cases [which appear to have some common partners/directors] started defaulting in repayment, as a result of which the loan agreements were terminated by notices dated 18.05.2024.

3. The petitioner claims outstandings of approximately Rs. 3.28 crores and approximately Rs. 2.16 crores respectively.

4. By way of these petitions, the petitioner seeks appointment of a receiver to take possession of the hypothecated medical equipment and an injunction restraining the respondents from alienating the said equipment.

5. Mr. N. Mahabir, learned counsel, appears on behalf of the respondents on advance notice in both the cases. He concedes to the injunction sought by the petitioner and submits that the respondents are making an effort to resolve the disputes with the petitioner.

6. Learned counsel on both sides submit that the disputes may also be referred to mediation, and failing a settlement, they may be adjudicated by arbitration. They consent to a reference being made in these proceedings itself and to the reliefs sought in the present petitions being



referred for adjudication under Section 17 of the Act, if the necessity arises.

7. Having regard to the submissions above, and with the consent of learned counsel for the parties, the petitions are disposed of with the following directions:

- a. The respondents are directed to maintain *status-quo* with regard to the possession of the hypothecated medical equipment, described in Prayer “i” of each of the petitions, and are restrained from creating any third-party interests therein.
- b. The 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.
- c. They will appear before the learned Mediator on 10.07.2024.
- d. In the event the parties are unable to settle their disputes in mediation, the disputes will be resolved by arbitration under the aegis of Delhi International Arbitration Centre, Delhi High Court, Shershah Road, New Delhi [“DIAC”]. DIAC is requested to nominate an arbitrator from its panel. Either party may approach the DIAC for initiation of the reference. The arbitration proceedings, if necessary, will be conducted in accordance with 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 interim reliefs sought in these petitions may be adjudicated by the learned Arbitrator under



Section 17 of the Act. The learned Arbitrator may take a decision thereupon and will not be bound by the order passed today.

8. It is made clear that this Court has not entered into a consideration of the merits of the cases.

PRATEEK JALAN, J

JULY 4, 2024
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