



2024:DHC:6283



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

+ **O.M.P.(I) 5/2023**

DR RAHUL BHAYANA

.....Petitioner

Through: Mr. Anshu Mahajan and Mr.
Vikash Aggarwal, Advs.

versus

DR ROHIT BHAYANA & ANR.

.....Respondents

Through: Mr. Piyush Ahluwalia and Ms.
Naina, Advs. for R-1 with R-1 in person
Ms. Kanika Agnihotri, Mr. Tarun Mehta and
Mr. Rohit Kumar, Advs. for R-2/DLF Ltd

CORAM:

HON'BLE MR. JUSTICE C. HARI SHANKAR

JUDGMENT (ORAL)

20.08.2024

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1. This petition is mainly contested by Respondent 2. The corpus of the dispute is Apartment No. CGL-034 along with parking space bearing No. PL 1014 situated in the project "Capital Greens" of Respondent 2 at 15, Shivaji Marg, New Delhi¹.

2. The prayer in this petition is for a restraint against the respondent terminating the allotment of the disputed apartment during the pendency of the present petition or till the conclusion of the arbitral proceedings.

3. By a separate order passed today in Arb P 809/2024, I have

Signature Not Verified¹ "the disputed apartment" hereinafter

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appointed an arbitrator to arbitrate on the disputes between the parties.

4. What has to be seen, therefore, is whether, despite the appointment of the arbitrator, who would adjudicate on the present petition treating it as an application under Section 17 of the 1996 Act, the court should nonetheless proceed to take up this petition and decide it on its own.

5. Ms. Kanika Agnihotri, learned Counsel for Respondent 2, is agreeable to this dispute being relegated to the arbitral tribunal to be decided as an application under Section 17 of the 1996 Act, subject to her client being permitted to raise all contentions of fact and law before the learned Arbitral Tribunal, including the aspect of outstanding payments, if any, due to her client from the petitioner/Respondent 1 in respect of the disputed apartment.

6. Respondent 1 does not oppose reference of this petition to the arbitral tribunal to be decided as an application under Section 17 of the 1996 Act.

7. Accordingly, with consent of parties, this petition is disposed of by referring it to the learned Arbitral Tribunal, constituted today by order passed today in Arb P 809/2024, to be decided as an application under Section 17 of the 1996 Act, in accordance with law and after hearing all concerned parties.

8. Pending disposal of this petition by the learned Arbitral Tribunal, *status quo* would be maintained with respect to the allotment

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of Apartment CGL-034, DLF Capital Greens, Karampura, New Delhi and Parking lot bearing No. PL 1014, which stand allotted in favour of the petitioner and Respondent 1.

9. This order of *status quo* shall, however, be subject to further orders to be passed by the learned Arbitrator.

10. This petition stands disposed of in the aforesaid terms.

C. HARI SHANKAR, J

AUGUST 20, 2024

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[Click here to check corrigendum, if any](#)

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