

Shipra Estate Limited vs Indiabulls Housing Finance Limited & ... on 12 May, 2021

Author: Sanjeev Narula

Bench: Sanjeev Narula

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* IN THE HIGH COURT OF DELHI AT NEW DELHI

+(9) O.M.P.(I) (COMM.) 154/2021

SHIPRA ESTATE LIMITED Petitioner
Through: Mr. Darpan Wadhwa, Senior
Advocate with Ms. Gauri Rishi, Ms.
Srishti Juneja and Mr. Sanampreet
Singh, Advocates.

versus

INDIABULLS HOUSING FINANCE LIMITED & ORS Respondents
Through: Mr. Sandeep Sethi, Senior Advocate
with Mr. Rishi Agrawala, Mr. Karan
Luthra and Mr. Ankit Banati,
Advocates.

+(10) O.M.P.(I) (COMM.) 155/2021

KADAM DEVELOPERS PRIVATE LIMITED Petitioner
Through: Mr. Darpan Wadhwa, Senior
Advocate with Ms. Gauri Rishi, Ms.
Srishti Juneja and Mr. Sanampreet
Singh, Advocates.

versus

INDIABULLS HOUSING FINANCE LIMITED & ORS. Respondents
Through: Mr. Rajiv Nayar, Senior Advocate
with Mr. Manish Jha and Ms.
Vishrutyi Sahni, Advocates for
Respondent No.1.

O.M.P.(I) (COMM.) 154/2021 and connected matters

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+(11) O.M.P.(I) (COMM.) 156/2021

SHIPRA LEASING PRIVATE LIMITED Petitioner
Through: Mr. Darpan Wadhwa, Senior

Advocate with Ms. Gauri Rishi, Ms.
Srishti Juneja and Mr. Sanampreet
Singh, Advocates.

versus

INDIABULLS HOUSING FINANCE LIMITED & ORS

..... Respondents

Through: Mr. G. Tushar Rao, Senior Advocate
with Mr. Manish Jha and Ms.
Vishrutyi Sahni, Advocates for
Respondent No.1.

+(12) O.M.P.(I) (COMM.) 157/2021

SHIPRA HOTELS LIMITED

..... Petitioner

Through: Mr. Darpan Wadhwa, Senior
Advocate with Ms. Gauri Rishi, Ms.
Srishti Juneja and Mr. Sanampreet
Singh, Advocates.

versus

INDIABULLS HOUSING FINANCE LIMITED & ORS

..... Respondents

Through: Mr. Niraj Singh, Advocate for
Respondent No.1.

+(13) O.M.P.(I) (COMM.) 113/2021

SHIPRA LEASING PRIVATE LIMITED

..... Petitioner

Through: Mr. Darpan Wadhwa, Senior
Advocate with Ms. Gauri Rishi, Ms.
Srishti Juneja and Mr. Sanampreet
Singh, Advocates.

O.M.P.(I) (COMM.) 154/2021 and connected matters

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versus

INDIABULLS HOUSING FINANCE LIMITED & ORS.

..... Respondents

Through: Mr. G. Tushar Rao, Senior Advocate
with Mr. Manish Jha and Ms.
Vishrutyi Sahni, Advocates for
Respondent No.1.

+(14) O.M.P.(I) (COMM.) 114/2021

KADAM DEVELOPERS PRIVATE LIMITED

..... Petitioner

Through: Mr. Darpan Wadhwa, Senior
Advocate with Ms. Gauri Rishi, Ms.
Srishti Juneja and Mr. Sanampreet
Singh, Advocates.

versus

INIDABULLS HOUSING FINANCE LIMITED & ORS.

..... Respondents

Through: Mr. Rajiv Nayar, Senior Advocate
with Mr. Manish Jha and Ms.
Vishrutyi Sahni, Advocates for
Respondent No.1.

+(15) O.M.P.(I) (COMM.) 115/2021

SHIPRA HOTELS LIMITED

..... Petitioner

Through: Mr. Darpan Wadhwa, Senior
Advocate with Ms. Gauri Rishi, Ms.
Srishti Juneja and Mr. Sanampreet
Singh, Advocates.

versus

INIDABULLS HOUSING FINANCE LIMITED & ORS.

O.M.P.(I) (COMM.) 154/2021 and connected matters

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..... Respondents

Through: Mr. Niraj Singh, Advocate for
Respondent No.1.

+(16) O.M.P.(I) (COMM.) 116/2021

SHIPRA ESTATE LIMITED

..... Petitioner

Through: Mr. Darpan Wadhwa, Senior
Advocate with Ms. Gauri Rishi, Ms.
Srishti Juneja and Mr. Sanampreet
Singh, Advocates.

versus

INIDABULLS HOUSING FINANCE LIMITED & ORS.

..... Respondents

Through: Mr. Sandeep Sethi, Senior Advocate
with Mr. Rishi Agrawala, Mr. Karan
Luthra and Mr. Ankit Banati,
Advocates.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

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12.05.2021

[VIA VIDEO CONFERENCING]

I.A. No. 6359/2021 in O.M.P.(I)(COMM.) 154/2021 (for exemption) I.A. No. 6362/2021 in O.M.P.(I)(COMM.) 155/2021 (for exemption) I.A. No. 6366/2021 in O.M.P.(I)(COMM.) 156/2021 (for exemption) I.A. No. 6369/2021 in O.M.P.(I)(COMM.) 157/2021 (for exemption)

1. Allowed, subject to all just exceptions.

2. The applications stand disposed of.

I.A. No. 6277/2021 in O.M.P.(I)(COMM.) 113/2021 I.A. No. 6279/2021 in O.M.P.(I)(COMM.) 114/2021 I.A. No. 6275/2021 in O.M.P.(I)(COMM.) 115/2021 I.A. No. 6269/2021 in O.M.P.(I)(COMM.) 116/2021 I.A. No. 6360/2021 in O.M.P.(I)(COMM.) 154/2021 I.A. No. 6364/2021 in O.M.P.(I)(COMM.) 155/2021 I.A. No. 6367/2021 in O.M.P.(I)(COMM.) 156/2021 I.A. No. 6370/2021 in O.M.P.(I)(COMM.) 157/2021

3. The present applications under Section 151 of the Code of Civil Procedure, 1908 on behalf of the Petitioners seek exemption from filing signed notarized affidavits.

4. The applications are allowed, subject to the Petitioners filing the exempted documents within two weeks from the day the lockdown restrictions imposed by the Government of NCT of Delhi are lifted and the facility for attestation of affidavits is resumed.

5. The applications stand disposed of.

I.A. No. 6363/2021 in O.M.P.(I)(COMM.) 155/2021 (for production of documents)

6. The Petitioner seeks a direction to Respondent No. 1 to place on record the relevant documents pertaining to the sale of shares of the Petitioner conducted by Respondent No. 1 in favour of DLF Home Developers Private Limited. Mr. Rajiv Nayar, learned Senior Counsel for the Respondent No. 1 submits that the necessary documents have been emailed to the learned Court Master, however, on account of confidentiality, the same were not shared with the Petitioner. However, now he is instructed to say that the Respondent No. 1 has no objection in sharing the documents, subject to the Petitioner filing an affidavit of confidentiality as per the Commercial Courts Act, 2015. Counsel for the Petitioner states that the affidavit shall be filed within a period of three days from today. On receipt of the said affidavit, the documents shall be emailed by the counsel for the Respondent No. 1 to the counsel for the Petitioner.

7. The application is allowed and disposed of.

I.A. No. 6358/2021 in O.M.P.(I) (COMM.) 154/2021 I.A. No. 6361/2021 in O.M.P.(I) (COMM.) 155/2021 I.A. No. 6365/2021 in O.M.P.(I) (COMM.) 156/2021 I.A. No. 6368/2021 in O.M.P.(I) (COMM.) 157/2021

8. By way of these applications, the Petitioners seek a direction against Respondent No.1 to maintain a status quo in relation to the invocation/ transfer of the security as defined under Clause 1.1 (xxix)

of the Loan Agreement including post-dated cheques in favour of Respondent No.1.

9. In fact the interim orders are already operating. It must be noted that the Respondent had assailed the order passed by this Court dated 22nd April, 2021, whereby the Court had inter alia allowed the petitions under Section 11 of the Arbitration and Conciliation Act, 1996 (in short 'the Act') and appointed, Hon'ble Mr. Justice T.S. Thakur (retd.), former Chief Justice of India, as the Sole Arbitrator to adjudicate the disputes between the parties. While setting aside the said order, the Supreme Court had directed that the petitions under Section 11 of the Act shall be decided after replies have been filed by the Respondent and both parties have been heard. Furthermore, the Supreme Court had also permitted the parties to file applications under Section 9 of the Act for seeking interim reliefs. In view of the above, the Petitioners have filed the instant petitions i.e., O.M.P.(I) (COMM.) Nos.154/2021, 155/2021, 156/2021 & 157/2021.

10. While disposing of the appeals, the Supreme Court has directed that the statement made by the Respondents' counsel before the learned Sole Arbitrator, in an application under Section 17 of the Act shall continue till the time this Court decides the petitions under Section 9 of the Act. In view of the aforesaid directions, no further orders are required to be passed in the present applications and accordingly the same are disposed of. O.M.P.(I) (COMM.) Nos. 154/2021, 155/2021, 156/2021 & 157/2021

11. Issue notice.

12. Mr. Karan Luthra, learned counsel for the Respondent accepts notice in O.M.P.(I) (COMM.) 154/2021. Mr. Manish Jha, learned counsel for the Respondent accepts notice in O.M.P.(I) (COMM.) Nos. 155/2021 & 156/2021. Mr. Niraj Singh, learned counsel for the Respondent No.1 accepts notice in O.M.P.(I) (COMM.) 157/2021.

13. Mr. Rajiv Nayar and Mr. Sandeep Sethi, learned Senior Counsels for the Respondent state that no independent replies are necessary to be filed in the present petitions, since replies have already been filed in the O.M.P.(I)(COMM.) Nos. 113/2021 to 116/2021. The said replies be read as replies to the present petitions. Besides, they would rely upon on the documents placed on record in support of their submissions.

14. Since no pleadings are required to be filed in view of the afore-noted stand taken by the Respondent, the Court proceeds to hear the petitions finally.

15. Mr. Darpan Wadhwa, learned Senior Counsel for the Petitioners has completed his opening submissions. Mr. Nayar, has also completed his submissions on behalf of the Respondent. Mr. Sethi, has also addressed arguments on behalf of the Respondent. He submits that some more time is needed to complete his submissions.

16. At the request of Mr. Sethi, Respondents are permitted to file the documents, which forms part of the record of this Court in the O.M.P.(I) (COMM.) Nos. 113/2021 to 116/2021 and any other such document which was placed before the learned Sole Arbitrator.

17. Parties are also directed to file brief note of submission not exceeding five (5) pages before the next date of hearing.

O.M.P.(I) (COMM.) 113/2021 & I.A.No.6276/2021 O.M.P.(I) (COMM.) 114/2021 & I.A.No.6278/2021 O.M.P.(I) (COMM.) 115/2021 & I.A.No.6274/2021 O.M.P.(I) (COMM.) 116/2021 & I.A.No.6268/2021

18. List along with O.M.P.(I) (COMM.) Nos. 154/2021 to 157/2021 on 17th May, 2021.

SANJEEV NARULA, J MAY 12, 2021 v