IN THE COURT OF DISTRICT JUDGE, COMM COURT(02), SOUTH DISTRICT, SAKET COURT, NEW DELHI

<u>OMP(I)(Comm) 1124/22</u>

Aapka Humdum Solutions & Services LLP ….. Petitioner

Versus

Arvind Kumar & Ors. ….. Respondents

13.10.2022

Present : Ms. Yatika Choudhary, counsel for the petitioner (Mob. No. 9968058236 and email ID : yatika.choudhary@gmail.com)

This is a petition U/s 9 of Arbitration & Conciliation Act, 1996. Heard on the application U/s 151 CPC for passing of ex-parte ad-interm order. Ld. Counsel for the petitioner submits that the petitioner had granted short term fund of Rs.12,20,000/- vide agreement dated 03.10.2022 to the respondent no. 1 for balance transfer of his gold loan existing in the Muthoot Finance Ltd. (R-2) to HDFC Bank Ltd. and that loan was transferred with the account of R-1 with R-3/ICICI Bank. It is submitted that petitioner has already invoked arbitratiion vide notice dated 08.10.2022. It is further submitted that respondent no. 1 after receiving the funding has absconded from his house and has become unreachable and he has not transferred his gold loan to the HDFC Bank Ltd. till date.

It is further submitted that respondent no. 1 has attempted to release the gold from R-2 without the knowledge of the petitiioner. It is submitted that petitioner apprehends that respondent no. 1 may get release of the gold from Muthoot Finance (R-2) and dispose of the same or create third party interest therein. It is urged that there is likelihood that respondent no. 1 might obtain top up of fresh loan from Muthoot Finance (R-2). It is also urged that petitioner apprehends that the same may be credited in the account of ICICI Bank (R-3) and can be withdrawn by respondent no. 1 to frustrate the arbitration proceedings.

Legal standard is well settled that while passing orders under Section 9 of the Arbitration & Conciliation Act, the court is required to satisfy itself that (i) the applicant, before it, manifestly intends to initiate arbitral proceedings, (ii) the criteria for grant of interim injunction, which apply to Order 39 of the CPC, stands satisfied and (iii) circumstances also exist, which renders the requirement of ordering interim measures an emergent necessity, which cannot await a Section 17 proceeding, before the arbitrator, or abitral tribunal. In assessing whether such an emergent necessity exists, or not, the court essentially satisfies itself that failure to order interim measures, under Section 9, would frustrate, or would render the recourse, to arbitration – which is yet to take place – a futility.

Having regard to totality of aforenoted facts and circumstances, Muthoot Finance (R-2) is restrained from releasing any gold pledged by Shri Arvind Kumar (R-1) or granting any top up loan on the basis of the pledged loan by R-1 and R-3 (ICICI Bank) is restrained from releasing any amount from Account No. 073301507532 maintained with ICICI Bank (Sirsa Branch), 16/753, Opp Jai vila Hostel, Sirsa-125055, Haryana to R-1 till the next date of hearing.

Issue notice of the petition to the respondents by all possible modes including electronic mode on filing of

PF/RC/Speed Post/Courier or on email ID of the respondents. Steps be taken within three days. Process be given dasti, as prayed.

List on **29.10.2022** for appearance of the respondents and hearing. Copy of this order be given dasti, as prayed.

(VINAY KUMAR KHANNA)
District Judge
(Commercial Court-02)
South Distt., Saket, New Delhi/13.10.2022