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

\+ O.M.P.(I) (COMM.) 229/2019 & I.A. 10949-50/2019, 10874/2019

THREE C INFRA PRIVATE LIMITED ..... Petitioner

Through Mr. Rishi Kapoor, Mr. Raunak Satpathy and Mr. Abhay Kaushik, Advs.

versus

PARSVNATH RAIL LAND PROJECT LIMITED..... Respondent

Through Mr. Rajiv Nayyar and Mr. Ciccu Mukopadhyay, Sr. Advs. with Mr. Vijay Nair, Mr. Prashant Jain and Mr. Shubham Paliwal, Advs. for R-1 & 2.
Mr. Pradeep Mahajan and Mr. Tushar Mahajan, Advs.
Mr. Sanjoy Ghose and Mr. Rhishabh, Advs.
Mr. Ravi Gupta, Sr. Adv. with Mr. Anuj Malhotra, Advs. for R-3.

CORAM:
HON'BLE MR. JUSTICE RAJIV SHAKDHER

O R D E R

% 20.08.2019

1. Pursuant to the proceedings held on 9.8.2019, an affidavit has been filed on behalf of the petitioner. The affiant is, one, Mr. Supreet Singh Suri.

2. Mr. Supreet Singh Suri claims to be the Director and the authorised representative of the petitioner company. A perusal of

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the affidavit shows that the petitioner company has agreed to the offer made by respondent no.1 and 2 on 9.8.2019 to settle the dispute obtaining amongst them.

3. I may also indicate that in paragraph 6 of the very same affidavit it has been averred that the sum of Rs.65.50 crores was sourced by the petitioner company via its sister concern for two specific projects i.e. Greenopolis Welfare Association and Lotus Green Projects LLP (collectively referred to as "Projects").

4. According to the petitioner company, the money was obtained from Three C Infra Private Limited and Hacienda Projects Private Limited. It is averred that the principal amounts received from Three C Shelter Private Limited and Hacienda Projects Private Limited was Rs.47.50 crores and Rs.18 crores respectively.

5. It is, therefore, the stand of the petitioner company before me that the principal sum of Rs.65.50 crores alongwith simple interest at the rate of 2 per cent per annum, commencing from 21.8.2013, which is the date of the execution of the Optionally Convertible Debenture Subscription Agreement (for short 'OCD Agreement') will be utilised by it towards fulfilment of requirements of the aforementioned projects.

6. Mr. Rajiv Nayyar, learned senior counsel, who appears on behalf of respondent no.1 and 2 says that as long as respondents no.1 and 2 are given discharge it is not their concern as to the manner in which the money received by the petitioner company is utilised.

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7. I had indicated in my order dated 9.8.2019 that since money was garnered by the petitioner company for constructing flats, it ought to be utilised only for needs and requirements of flat owners who are represented by various homebuyers association.

8. The difficulty that I face today is that apart from respondent no.3 which represents one set of homebuyers there are two applications filed before me for impleadment i.e. I.A. No.10874/2019 and I.A. No.10949/2019 for impleading other set of homebuyers association.

9. Besides this, there could be other home buyers associations which are perhaps unaware of the proceedings pending in this Court.

10. Therefore, while the dispute between the petitioner company and respondents no.1 and 2 stands resolved, there is a likelihood of claims being made with respect of the monies that the petitioner company will receive by various homebuyers association including the three that I have referred to hereinabove.

11. Thus, in my view, the best course that can be adopted in the given facts and circumstances is that the money as per the terms of settlement arrived at between the petitioner company and respondents no.1 and 2 can be released to the petitioner company which will keep the same in a separate escrow account albeit for a period of four (4) weeks from the date of receipt of funds.

12. In case the petitioner company does not receive notice of any proceedings or orders of any appropriate court or authority, it would,

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as indicated to me, utilise the money only for the projects referred to in paragraph 6 of the affidavit filed on its behalf.

13. Accordingly, the instant petition and pending applications are closed with the following directions:-

(i) The Registry will release to the petitioner company, out of the sum of Rs.250 crores retained with it, a sum of Rs.65.50 crores alongwith simple interest at the rate of 2 per cent per annum, commencing from 21.8.2018 till 20.8.2019.

(i) (a) In case any withholding tax is required to be deposited, the Registry will make suitable adjustments.

(i)(b) The counsel for respondents no.1 and 2 will revert with this aspect of the matter within the next three (3) days. This information will be given to the Joint Registrar (Judicial) by way of an affidavit.

(ii) After the money is released to the petitioner company as quantified in terms of the directions issued hereinabove, the remaining amount shall be released to respondent no.1.

(iii) With the release of money to the petitioner company, the liabilities of respondent no.1 and 2 towards the petitioner company will come to an end.

(iv) Furthermore, the director of the petitioner company i.e. Mr. Supreet Singh Suri, who is present in Court will file an undertaking by way of an affidavit, indicating therein that the money as directed by me hereinabove will be kept in an interest bearing escrow account for a period of four (4) weeks from the date of receipt of the money from the Registry.

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14. List the matter before the Joint Registrar (Judicial) on 28.8.2019.

RAJIV SHAKDHER, J

AUGUST 20, 2019
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