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

Date of Reserve: August 12, 2009  
Date of Order: August 31, 2009

**+OMP 461/2009**

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**M/s Nilu Handicrafts**

Through: Mr. Harish Malhotra, Sr. Advocate with Mr. Rajender Aggarwal, Advocate

**31.08.2009**

**...Petitioner**

Versus

**M/s Dolphin Mart Ltd.**

Through: Nemo

**...Respondent**

**JUSTICE SHIV NARAYAN DHINGRA**

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporter or not?
3. Whether judgment should be reported in Digest?

**JUDGMENT**

1. This petition under Section 9 of the Arbitration & Conciliation Act, 1996 has been made by the petitioner with a prayer that this Court should direct respondent to pay to the petitioner outstanding rent of Rs.1,23,000/- per month from 1<sup>st</sup> February 2009 till date and continue to pay the said amount till the possession is delivered to the petitioner.

2. The petition discloses that the petitioner had entered into a lease deed with the respondent in respect of a showroom No.GS-109, Ground Floor, DLF, Grand Mall, Mehrauli-Gurgaon Road, Haryana comprising of 1174 sq. feet reserving the rent of Rs.1,23,000/- per month with lock-in-period of three years commencing from 9<sup>th</sup> August 2006 to 8<sup>th</sup> August, 2009. The petitioner received a letter from respondent wherein respondent informed the petitioner

that the running of showroom was not economical for it and the respondent was planning to handover the showroom to Dolphin International Limited to run an export office. Respondent wanted no objection from petitioner for this arrangement. Respondent vide another letter dated 6<sup>th</sup> December 2008 told the petitioner not to present the post-dated cheques issued by it on account of rentals. Since the petitioner did not issue no objection, respondent vide letter dated 5<sup>th</sup> May 2009 intimated to the petitioner that it had vacated the premises and asked the petitioner to take possession and the keys of the premises after refunding the security. Thereafter, the petitioner filed this petition under Section 9 with above prayer.

3. In my view, this petition under Section 9 is not maintainable. A petition under Section 9 cannot be filed to recover arrears of rent or to seek directions for respondent to continue to pay the rent. The intent and purpose of Section 9 is to preserve the subject matter of arbitration. The scope of Section 9 is not as extensive as various rules under Order 39 or and also does not include in its ambit Order 12 Rule 6 of CPC. The instant petition seeking directions for respondent to pay rent to the petitioner is not maintainable. The petition is hereby dismissed. The petitioner, however, would be at liberty to invoke the arbitration clause and ask the arbitrator to pass a suitable interim award.

**August 31, 2009**  
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**SHIV NARAYAN DHINGRA J.**