

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.5786 OF 2014

City Corporation Ltd (CCL),	]	
Through its Authorized Signatory	]	
Shri Aniruddha Pradyumna Deshpande.	]	... Petitioner

Versus

Ellora Struc-Con Private Limited	]	
Through its Director Shri Vijay R. Gajra & Ors.	]	... Respondents

Mr. S. V. Pitre for Petitioner.
 Mr. S. K. Shinde for Respondent No.1.

WITH
WRIT PETITION NO.5787 OF 2014
WITH
CIVIL APPLICATION NO.2013 OF 2014

City Realty and Development Private	]	
Limited (CRDPL),	]	
Through its Authorized Signatory	]	
Shri Jaymalhar K. Bhosale.	]	... Petitioner

Versus

Ellora Struc-Con Private Limited	]	
Through its Director Shri Vijay R. Gajra & Ors.	]	... Respondents

Mr. Mahesh Subramaniam for Petitioner.
 Ms. Meena R. Sharma for Respondent No.1.

CORAM :- M. S. SONAK, J.

DATE :- MAY 06, 2015

P. C. :-

1. These two petitions can be disposed of by a common order. Both the petitions challenge common order below Ex.18 and Ex.19 which has the effect of dismissing Petitioners' application under Section 8 of the Arbitration and Conciliation Act, 1996 ('the said Act') for reference of the dispute and parties to the suit to arbitration.

2. Mr. S. K. Shinde, learned Counsel for Respondent No.1 in Writ Petition No.5786 of 2014 who is the Plaintiff in the said suit, on basis of instructions from his client, makes a statement that the Plaintiff is not averse to resolution of disputes by way of arbitration. Accordingly, Mr. Shinde submits that the Plaintiff would have no objection is the application under Section 8 of the said Act instituted by the Petitioner is made absolute.

3. In view of the aforesaid, the impugned order dated 03/05/2014 is set aside and the Petitioner's application dated 22/10/2013 is made absolute in terms of para 4 (a) which reads thus :-

“The Hon'ble Court, considering the Article No.17 of the Articles of Agreement dated 21st March, 2012, refer the dispute to arbitration, as per the provisions of Indian Arbitration & Conciliation Act, 1996.”

4. In view of the aforesaid, the Respondent No.1-Plaintiff applies for withdrawal of Special Civil Suit No.1108 of 2013. Leave is granted. The Respondent No.1-Plaintiff is at liberty to make a formal application before the Civil Court to seek for refund of proportionate Court fees as may be available under the law.

5. The two petitions are disposed of in the aforesaid terms.

6. The Civil Application No.2013 of 2014 does not survive and the same is also disposed of.

(M. S. SONAK, J.)