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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

ARBITRATION PETITION (LODGING) NO.1708 OF 2015

Dipti Home Makers Pvt. Ltd. ...Petitioner
V/s.
Koteshwar Darshan Co-op. Hsg. Soc. Ltd. & Ors. ...Respondents

Dr.Birendra Saraf i/b Mr.Shah Kayval for the Petitioner.

Mr.Jayesh Vyas for the Respondent No.1.

Mr.Drupad Patil for the Respondent No.2.

CORAM : R.D. DHANUKA, J.
DATE : 29TH SEPTEMBER, 2015.

P.C. :-

1. By consent of parties, the arbitration petition is heard finally at the ad-interim stage. Since the parties have agreed to the following order by consent, no reasons are recorded :

a). Without prejudice to the rights and contentions of the petitioner, the petitioner has agreed to pay the rent to the respondent no.2 at the rate of Rs.70/- per sq. ft. for the first 12 months from the date of the respondent no.2 handing over possession of garage to the petitioner and at the rate of Rs.77/- per sq. ft. for the next 12 months. The petitioner has agreed to pay brokerage in the fixed sum of Rs.10,000/- and also shifting charges within one week from today.

Insofar as payment of corpus fund is concerned, the petitioner has agreed to pay the said amount to the respondent no.2 if awarded by the learned arbitrator.

b). Learned counsel for the respondent no.2 on instructions states that the respondent no.2 would hand over vacant possession of the garage to the petitioner within 10 days from today. The statement of the learned counsel is accepted.

c). It is made clear that whether the respondent no.2 would be entitled to compensation, if any, in lieu of the existing garage or the property of equivalent area in the proposed building can be decided by the learned arbitrator.

d). At the request of learned counsel for the petitioner, the Court Receiver is directed to depute an officer from the office of the Court Receiver to take physical measurement of the garage which shall be in presence of both parties. The fees and expenses of the officer to be deputed by the Court Receiver shall be paid by the petitioner.

e). It is made clear that if the respondent no.2 does not vacate the garage and hands over possession of the same to the petitioner within 10 days from today, the Court Receiver shall stand appointed of the said garage, with a power to take forcible possession of the garage and if necessary with the help of police and shall hand it over

to the petitioner for demolition and redevelopment of the building in question.

f). Dr.Saraf, learned counsel for the petitioner on instructions from Mr.Chandulal Shah, undertakes to provide accommodation in the proposed building to the petitioner, if directed by the learned arbitrator in the award. The undertaking is accepted.

g). Mr.Simil Purohit, advocate is appointed as the sole arbitrator.

2. The arbitration petition is disposed of in aforesaid terms.
No order as to costs.

(R.D. DHANUKA, J.)

“Certified to be true and correct copy of original signed order.”