

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
ARBITRATION PETITION NO.435 OF 2016

Tridhaatu Bhaveshwar Developers LLP ... Petitioner
versus
Bhaweshwar Vilas Co-op. Housing
Society and Ors. ... Respondents

Mr. Saket Mone with Mr. Vishesh Kale, Mr. Subit Chakrabartii/by M/s. Vidhi Partners, for Petitioner.

Mr. B.D.Kulkarni, for Respondent Nos.2 and 5.

CORAM: S.J. KATHAWALLA, J.

DATE: 15th APRIL, 2016

P.C.:

1. The redevelopment of the property of the society has been stalled since Defendant No.2 who is in possession of Flat Nos.13 and 14, has not handed over possession of the said flats to the society/developer. The owners of the flats are Respondent Nos.2 to 11, who are the legal heirs of the original members Chamanlal D. Chadha and Smt. Iqbaldevi C. Chadha. Heard the learned Advocates for the parties and the following order is passed :

(i) The Defendant No.2 shall handover possession of flat Nos.13 and 14 to the Defendant No.2 Society within a period of two weeks from the date of this order.

(ii) The developer has handed over a break up of the amounts payable towards corpus as well as hardship compensation and compensation for temporary alternate accommodation aggregating to Rs.12,32,000/-. The said statement is taken on record and marked 'X' for identification. The said amount of Rs.12,32,000/- shall

be deposited by the developer with the Prothonotary and Senior Master, simultaneously upon handing over possession of the two flats to the Society by the Respondent No.2.

(iii) The Developer also undertakes to deposit with the Prothonotary and Senior Master the amounts agreed under the development agreement towards compensation for temporary alternate accommodation after the expiry of 12 months, till the occupation certificate is received.

(iv) The heirs of late Chamanlal D. Chadha and Smt. Iqbaldevi C. Chadha shall be at liberty to move the appropriate Court and seek orders qua their rights in the said two flats. The amounts deposited in the Court shall be disbursed after the final orders are passed by the appropriate Court in the proceedings filed by the heirs of late Chamanlal D. Chadha and Smt. Iqbaldevi C.Chadha.

(v) The possession of the two flats shall be handed over to the party in whose favour the final orders are passed by the appropriate Court.

(vi) In the event of the appropriate Court not having passed final orders as regards the rights of the heirs in respect of the two flats, the possession of the newly constructed two flats shall be handed over by the developer/society to the Respondent No.2. However, the same shall be subject to the final orders passed by the appropriate Court.

(vii) In view of this order, the above Arbitration Petition is disposed of.

(S.J.KATHAWALLA, J.)