

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

ARBITRATION PETITION NO.310 OF 2016

Calvin Shresth Properties LLP and Vasant Kunj Co-op. Housing Society Ltd. and Ors.	...	Petitioner Respondents
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**WITH
ARBITRATION APPLICATION (L) NO.844 OF 2016**

Mr. Sean Wassoodew with Mr. Rupesh Mandhare, for Petitioner.
Mr. Vivek Walavalkar i/by Mr. Siddharth Ingule, for Respondent No.1.
Mr. Manish Lapsiwala, Respondent No.3, present.
Mr. Kalpesh Patel, Partner of Petitioner, present.

CORAM: S.J. KATHAWALLA, J.

DATE: 29th JULY, 2016

P.C.:

1. Heard the learned Advocates for the parties and Mr. Manish Lapsiwala, Respondent No.3, who is also the constituted attorney of his Mother Nalini Lapsiwala. By consent of the parties, the following order is passed :

(i) The Petitioner Builder shall before seeking possession of the flats from the occupants provide a Bank Guarantee of a Nationalized Bank of Rs.5 Crores to the Society. In view thereof, the said Bank Guarantee shall substitute the security provided in Clause 21 of the Development Agreement.

(ii) The Petitioner undertakes through its Partner Mr. Kalpesh Patel, to comply with all the provisions of the Development Agreement and further undertakes

that the area promised to the members of the Society towards permanent alternate accommodation shall also be complied with. The undertaking is accepted.

(iii) In view of this order, Mr. Manish Lapsiwala for self and on behalf of his mother, who is Respondent No.2, undertakes to handover vacant and peaceful possession of his flat on or before 31-10-2016. The undertaking is accepted. It is clarified that if for any reason, the possession is not handed over to the Petitioner on or before 31-10-2016, the Court Receiver, High Court, Bombay, shall stand appointed in respect of Flat No.B-4, First Floor, who shall take forcible possession of the said flat and handover the same to the Society.

2. The above Arbitration Petition is disposed of.

3. In view of the above order, the Arbitration Application (L) No.844 of 2016 does not survive and the same is accordingly disposed of.

(S.J.KATHAWALLA, J.)