

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

**SUIT NO.831 OF 2016
WITH
NOTICE OF MOTION NO.2369 OF 2016**

Dinesh Amarchand Shah ... Plaintiff
versus
Grace Realty Pvt. Ltd. ... Defendant

**WITH
SUIT NO.837 OF 2016
WITH
NOTICE OF MOTION NO.2371 OF 2016**

Anjana Dinesh Shah ... Plaintiff
versus
Grace Realty Pvt. Ltd. ... Defendant

Mr. Sanjay Jain i/by Ms. Prerna R. Lalchandani, for Plaintiffs.
Mr. Mukul Taly with Ms. Sanchitta Sridhar i/by M/s. S. Mahomedbhai and Co., for Defendant.

CORAM: S.J. KATHAWALLA, J.

DATE: 6th OCTOBER, 2016

P.C.:

1. Heard the learned Advocates appearing for the parties and the following order is passed by consent :

(i) All disputes between the parties are referred to the sole arbitration of Mr. Sharan Jagtiani, Advocate.

(ii) The disclosure of Mr. Sharan Jagtiani, Advocate under Section 11 (8) read with Section 12 (1) of the Arbitration and Conciliation Act, 1996 is taken on

record.

(iii) The learned Advocate for the Defendant on instructions, undertakes to forthwith handover flat Nos.1301 and 1302 on the 13th floor in the building known as 'Pearl Garden', Matunga, to the above Plaintiffs ("the Suit flats").

(iv) At the time of handing over of the Suit flats, Mr. Ketan Trivedi, Commissioner of Taking Accounts, High Court, Bombay, shall remain present and he shall take an inventory in respect of the amenities provided in the flats if any and also take video recording of the suit flats so as to enable the learned Arbitrator to ascertain the correctness of the claims. The cost of the Commissioner is quantified at Rs.20,000/-, which is to be paid by the Plaintiffs.

(v) The Plaintiff undertakes to execute Rectification Deeds with the Defendants with respect to the suit flats being handed over to them by the Defendants. However the execution of the Rectification Deeds shall not delay handing over of the suit flats to the Plaintiff.

(vi) The Plaintiffs jointly and severally, undertake that they shall pending the arbitration proceedings, passing of the Award and for a period of 8 weeks thereafter, not sell, alienate, encumber, part with possession and/or create third party rights in respect of the suit flats handed over to them and further that in the event of any monetary Award being finally passed in favour of the Defendant, and confirmed by the Courts in Appeal, the Defendant shall be entitled to execute a decree against the

Plaintiffs against the suit flats.

(vii) The parties shall appear before the learned Arbitrator in his chambers, on 13th October, 2016 at 05.15 p.m. and obtain necessary directions.

(viii) All contentions of the parties are kept open.

(ix) The cost of arbitration shall initially be borne by the parties equally.

(x) The venue of Arbitration shall be at Mumbai.

(xi) In view of this order, the above Suits as well as Notices of Motion are accordingly disposed of. Refund of Court Fees, if any, as per rules.

(S.J.KATHAWALLA, J.)