

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
ARBITRATION PETITION NO.1757 OF 2015**

Marve Apartment Co-operative
Housing Society Ltd.

... Petitioner

versus

M/s. Om Sri Maa Shakti Namah and Ors.

... Respondents

Mr. P.M.Shah, for Petitioner.

Mr. V.J.Dhok with Mr. A. Singh, Mr. R.A.Shah, Mr. N.I.Marjedi i/by M/s.
Mansukhlal Hiralal and Co.,for Respondents.

Mr. Mehul Shah, for Flat Purchasers.

CORAM: S.J. KATHAWALLA, J.

DATE: 12th JULY, 2016

P.C.:

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

(i) The rent deposited by the developer with the Prothonotary and Senior Master shall without prejudice to the rights and contentions of the developer be handed over to the Society for disbursement to its members.

(ii) The developer undertakes that pursuant to Clause 59 of the Development Agreement, he shall within four weeks from the date of this order, furnish in favour of the Society, bank guarantee of a nationalized bank in the sum of Rs.75,00,000/-.

(iii) The Society shall not invoke the bank guarantee without giving written

notice to the developer and without seeking prior permission of this Court.

(iv) The developer undertakes to pay the arrears of property taxes to the Municipal Corporation within 30 days from the date of this order.

(v) Upon the developer complying with the aforesaid undertakings, the letter written to the Corporation by the Society dated 01-08-2015 shall without prejudice to all the rights and contentions of the Society, deemed to have been withdrawn and the Corporation shall proceed to process the Application filed by the developer.

(vi) The developer shall continue to pay monthly rent to the tenants as agreed under the Development Agreement.

(vii) Until the alleged claim of the the developer pertaining to payment required to be made by members for being provided with additional areas is decided, the developer shall not hand over possession of the suit flats to the members of the society.

(viii) In view of the above order, the Arbitration Petition is disposed of with liberty to the parties to file a fresh Petition if so advised.

(S.J.KATHAWALLA, J.)