

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE CIVIL JURISDICTION**

**CIVIL APPLICATION NO. 11 OF 2017
IN
ARBITRATION PETITION NO. 86 OF 2017**

M/s. Paramount Properties,
through its Partner Mr. Sameer Saeed
Ahmed Khan

....Applicant/Petitioner

Vs.

Dorabjee Developers through its two
Partners and Ors.

....Respondents

Mr.Atul Damle, Senior Advocate i/b Vyas H. Purushottam for petitioner/applicant.

None for respondents.

CORAM : K.R.SHRIRAM, J.

DATE : 24th NOVEMBER, 2017

P.C.:

1 The civil application, as referred in the order dated 10th November 2017, has been served upon respondent Nos.11 and 12 on 4th November 2017. To give respondent Nos.11 and 12 some more time to appear in Court, the application was stood over to 17th November 2017. The matter did not get listed on 17th November 2017 but it is listed today. Even today, it appears nobody has entered appearance for respondent Nos.11 and 12 to oppose the application. Therefore, the averments contained in the application are uncontroverted.

2 It is stated that respondent Nos.11 and 12 are the erstwhile Partners of respondent no.1. Dispute had arisen between applicant and respondent nos.1 and 2

regarding an agreement dated 21st December 2004.

3 Applicant had preferred one Regular Civil Suit bearing No.811 of 2012 in the Court of Civil Judge, Senior Division, Pune seeking reliefs of injunction, settlement of accounts etc, against respondent Nos.1 to 10 and one Shiv Sagar Estates and Mohammad Reza Jalal Aryai. The relief, however, was sought only against defendant nos.1 and 2 therein and defendant nos.3 to 12 were added as necessary and proper parties. In view of an application filed under Section 8 of the Arbitration and Conciliation Act, 1996, the Court of Civil Judge, Senior Division, Pune was pleased to allow the application and directed parties to refer the dispute for arbitration. This is the background in which the present application came to be filed. It is also stated that respondent nos.11 and, 12 who are proposed to be added as respondents in this application, were also defendants in the suit that was filed in the Court of Civil Judge, Senior Division, Pune and by oversight respondent Nos.11 and 12 were missed out from the array of respondents in the present petition. Hence this application is taken out to include respondent Nos.11 and 12 also as respondents.

4 Having heard Shri Damle for applicants and also having considered the affidavit in support and the application, in view of the fact that the allegations are not even controverted by respondent nos.11 and 12 who are required to be added, I am inclined to allow the application. Application is allowed in terms of prayer clauses (a) and (b) which read as under :

“(a) that the Arbitration Petition be revived and necessary orders be passed in the interest of justice.

(b) the Applicant be permitted to carry out amendment and add the Respondent Nos.11 and 12, namely, (11) Shiv Sagar Estates and (12) Shri Mohd. Reza Aryai in the cause title.”

5 In view of the above order, applicant may add respondent Nos.11 and 12 as also party to the arbitration proceedings.

Amendment to be carried out within two weeks from today.

6 Civil Application accordingly disposed.

(K.R. SHRIRAM, J.)