

JSN

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS COMMERCIAL DIVISION
ARBITRATION PETITION (L) NO. 14 OF 2017**

Mittal Tarak Shah	...Petitioner
<i>Versus</i>	
Shreeji Associates	...Respondent

Mr Swapan Samdani, *for the Petitioner.*
Mr Akhilesh Dubey, *i/b Law Counsellor for the Respondent.*
Dr MS Deshpande, *Court Receiver present.*

CORAM: G.S. PATEL, J
DATED: 3rd March 2017

PC:-

1. Mr Dubey has with him a cheque No. 000091 in favour of the Petitioner in the amount of Rs.61,07,250/- post-dated to 1st June 2017, issued by one Yushan Realty Ventures. This cheque is handed to Mr Samdani for the Petitioner in Court today.

2. Subject to it being honoured, the Petitioner accepts this cheque in full and final satisfaction of his entire claim. The Petitioner client will deposit this cheque on 1st June 2017. If this cheque is honoured on presentation, this Petition will stand dismissed without further reference to the Court and the Petitioner will then have no further claim whatsoever against the Respondents.

3. Should the cheque be dishonoured, however, the Court Receiver will stand appointed of Shop No.8, Plot No.95, Sector 9, Ulwe, District Raigad. He will then proceed to sell the shop by public auction. From the sale proceeds the amount of Rs.61,07,250/- with interest at 15% p.a. from the date of the MoU i.e., 16th December 2013, till payment shall also be paid to the Petitioner. The Respondent agrees and consents to this order and undertakes not to obstruct possession being taken by the Respondent. It is clarified that Shop No.8 is as yet under construction. Should that construction not be completed by that date, the Court Receiver will nonetheless stand appointed of it, but will proceed to sell it as and when it is ready for possession, and on completion of construction, possession will be delivered to the Court Receiver. Interest on the full amount on principal Rs.61,07,250/- will continue to run from 16th December 2013, till Shop No.8 is sold. This is the agreed provision in case of default, and the Respondent specifically consents to this.

4. In addition, in the event of such default, the Petitioner will then be at liberty to invoke Arbitration. By consent, the existing arbitration clause is substituted to provide instead for a sole arbitrator and the disputes will be referred to the sole arbitration of Mr Viren Jani, counsel of this Court. This appointment is also by consent. The Petitioner will obtain Mr Jani's statement of disclosure and file the same if and when required. He will also place a copy of this order before Mr Jani and call for a meeting. In consequence of this reference to the arbitration being necessitated by the Respondents default, the entire costs of the arbitration will be borne by the Respondent. The Respondent specifically agrees to all

of the aforesaid and these statements are accepted as an undertaking to the Court.

5. It will be open to Respondent to make payment of the entire amount of Rs.61,07,250/- at any time before 1st June 2017 as well.

6. On receipt of the amount of Rs.61,07,250/- on or before 1st June 2017, the Petitioner will withdraw all criminal complaints initiated by him. Till 1st June 2017, the Petitioner will not prosecute these complaints.

7. Two officers of the Court Receiver have spent eight hours on site visiting various occasions to make a report. The Petitioner will pay their cost quantified at Rs.7,500/- each. This will be adjusted against the amount of Rs.15,000/- already deposited by the Petitioner with the Court Receiver.

(G. S. PATEL, J.)