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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS COMMERCIAL DIVISION
CHAMBER SUMMONS NO. 55 OF 2017
IN
COMM ARBITRATION PETITION NO. 172 OF 2017**

Capri Global Capital Ltd	...Petitioner
<i>Versus</i>	
Monarch Brookfields LLP & Ors	...Respondents
<i>And</i>	
Nitin Keshav Sanil & Ors	...Applicants

**AND
COMM ARBITRATION PETITION NO. 172 OF 2017
WITH
SHOW CAUSE NOTICE NO. 520 OF 2017
AND
CHAMBER SUMMONS NO. 72 OF 2017**

Capri Global Capital Ltd	...Petitioner
<i>Versus</i>	
Monarch Brookfields LLP & Ors	...Respondents

Dr B Saraf, *with Ranjeev Carlhavo, i/b Manilal Kher Ambalal & Co.,
for the Petitioner.*

Mr Pradeep Sancheti, **Senior Advocate**, *with Dipen Furia, i/b M/s.
Shah & Furia Associates, for Respondents Nos. 1 to 5 & 7 to 9(1).*

Mr Sumit Rai, *i/b Abhishek Adke, for Respondent No. 6.*

Mr Vikrant Zunjarrao, *i/b Zunjarrao & Co., for Respondent No. 9(2).*

Mr Mahesh L Kukiya, *for the Interveners/Applicants in CHSCD/72/2017.*

Mr KH Halai, *with P Ranjan, i/b Halai & Co., for the Applicants in CHSCD/55/2017.*

Mr Kamlesh Ghumte, *with Sonali Sabale, for 65 Interveners/Applicants.*

CORAM: G.S. PATEL, J
DATED: 19th April 2017

PC:-

Chamber Summons No. 55 of 2017:

1. This Chamber Summons for intervention is thoroughly misconceived and must be dismissed. The Applicants are 68 purchasers/allottees, or so they claim, in one of the contesting Respondents' three projects, Monarch Greenscape. Admittedly they are not parties to the arbitration agreements between Capri Global Capital Ltd, the Petitioners and the Respondents concerned. They are also not claiming by, through or under the Petitioners or, strictly speaking, those Respondents. They are transferees or allottees from those Respondents. It is understandable that they seek to protect their rights. It is equally understandable that they are anxious that any rights over flats in respect of which they have allotments or registered agreements should not be compromised, but all of this only means that they must file their own arbitration petitions, if they have agreements with arbitration clauses, or must file other appropriate proceedings. They cannot seek to intervene in Capri Global Investment Ltd's Arbitration Petition.

2. The Chamber Summons is dismissed as withdrawn specifically leaving open all rights and contentions including the right to each of them individually or to all of them collectively, if possible, to file appropriate proceedings, including a civil suit or a petition under Section 9 of the Arbitration & Conciliation Act 1996. This also means that two or more of these Applicants may join together in one type of proceedings and others in another type of proceeding. All rival contentions are expressly kept open.

3. Additionally, and this will also survive for the benefit of the Applicants, the Court Receiver appointed has taken formal possession. That order of Receivership will undoubtedly benefit all flat purchasers also. Construction has not been halted on account of receivership. The interests of the Applicants are as sufficiently protected as possible given the nature of these proceedings.

4. I will also note that in the statements of disclosure that are required from the Respondents, there will be undoubtedly information in regard to the allotment letters or registered agreements or both. It is possible that the information that is furnished by the Respondents and which is apparently on an Affidavit tendered by Mr Sancheti today may contain the name of one or more of the present Applicants in the Chamber Summons. This only means that the interests of these Applicants will be required to be sufficiently protected even in the present dispute so that no orders adverse to their interests are passed.

5. It is curious that in the Monarch Greenscape project nothing at all has been done on site except creating part of the plinth. The Applicants' apprehensions are somewhat premature at this stage.

Commercial Arbitration Petition No. 172 of 2017:

6. Mr Sancheti tenders an Affidavit dated 19th April 2017 of Mr Gopal Thakur, Respondent No 5. It is in partial compliance with my previous directions for disclosure. It is difficult to say at this stage that it is entirely satisfactory. It will need a closer examination after Dr Saraf for the Petitioners has taken instructions. However, it seems to me that further details in respect of paragraph 9A, i.e., in regard to the funds that were utilized outside of the Escrow account/arrangement must be provided. In addition, the statement made in paragraph 7(d) in regard to the personal assets of Respondents Nos. 4, 5, 7 and 8 is inadequate. Full particulars and details of those assets both movable and immovable, encumbered and unencumbered must also be disclosed. Let the further Affidavit be filed by 24th April 2017.

7. List the Arbitration Petition on 26th April 2017 on the supplementary board.

(G. S. PATEL, J.)