

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

**ARBITRATION PETITION NO. 522 OF 2013**

M/s. Mitej Developers ..... Petitioner  
V/s.  
M/s. Truly Creative Developers Pvt. Ltd. .... Respondent

Mr. A.R. Shaikh for the Petitioner.  
Mr. Umesh Kurund i/b Ways Attorney for the Respondent.

**CORAM : G.S. KULKARNI, J.**

**DATE : 14 AUGUST, 2017.**

**P.C. :**

1            Heard learned counsel for the parties. This is a Petition under Section 9 of the Arbitration and Conciliation Act, seeking interim protective reliefs pending the arbitration proceedings. The cause of action appears to a joint venture agreement dated 22.03.2001 which came to be cancelled and a subsequent agreement dated 07.07.2003 was entered between the parties.

2            The issue is in regard to redevelopment of certain lands in which the petitioner claims to have financially contributed in the acquisition of the land which is subject matter of development.

There is also an issue in regard to the encroachments of the land in question and SRA Scheme being sanctioned by the authorities.

3           Admittedly, this Petition is pending since the year 2013, there are no ad-interim orders which came to be passed. It is an agreed position between the parties that an arbitrator is already appointed and the arbitrator is seised with the adjudication of the disputes. The grievance of Mr. Shaikh is that the arbitrator is not conducting hearing inspite of the petitioner having approached the arbitrator on several occasions. That cannot be a reason for the petitioner not to seek injunctory reliefs before the learned arbitrator. As a learned arbitrator is already seised with the arbitration, it would be appropriate that the petitioner if desires to seek any interim protection and more particularly in the peculiar facts of the present case, it will be open for the petitioner to move appropriate application in that regard before the learned arbitrator under the provisions of Section 17 of the Act.

4           In these circumstances further adjudication of this Petition is not warranted. The petitioner is always at liberty to move such appropriate proceedings as permissible in law if it has

any grievance in regard to the conduct of the arbitration proceedings. With these observations, keeping all the contentions of the parties open, this Petition is disposed of.

**(G.S. KULKARNI, J.)**