

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS COMMERCIAL DIVISION
COMMERCIAL ARBITRATION PETITION NO.506 OF 2017**

Bhoomi Associates

....Petitioner

Vs.

New Vandana Co-op. Hsg. Soc. Ltd. & Ors.

....Respondents

Mr. Pravin Samdani, senior advocate a/w. Mr. Rohaan Cama i/b. Mr. Bhavin R. Bhatia for petitioner.

Mr. Deepak K. Shah, partner of petitioner present.

Mr. A.S. Daver i/b. Mr. Prayag B. Joshi for respondent no.1.

Mr. Manish D. Umrana, secretary and authorised representative of respondent no.1 present.

Mr. Mayur Khandeparkar a/w. Ms. Rasika Bagkar and Ms. Roshni Naik i/b. Bagkar and Co. for respondent nos.2 and 3.

Mr. Sudhir Kulkarni, respondent no.2 present in person.

Ms. Sulbha Sitaram Kulkarni, respondent no.3 present in person.

CORAM : K.R.SHRIRAM, J.

DATE : 15th/16th NOVEMBER, 2017

PC.:

1 Parties tendered consent minutes of order dated 15th November, 2017 signed by the representative of petitioner, respondent no.1, respondent no.2, respondent no.3 and their respective Advocates. Counsel state that the signatories to the consent minutes of order are present in Court and they identify them. Respondent no.3 came to Court on 16th November, 2017 and signed the consent minutes of order.

2 The consent minutes of order is taken on record and marked 'X' for identification. For ease of reference the consent minutes of order is reproduced hereunder :

The following order is passed by consent of parties:

1. Respondent Nos.2 and 3 shall on or before 5 p.m. on 16th November, 2017 hand over quiet, vacant, peaceful possession of their existing Flat No.A-102 to Respondent No.1 and against Petitioner handing over the cheque for compensation as per the Development Agreement and Supplementary Agreement. Respondent No.1 shall forthwith hand over the same to the Petitioner to carry out the redevelopment as per the terms of the Development Agreement dated 20th December, 2012 and Supplemental Agreement dated 16th September, 2014.
2. The Petitioner shall construct and hand over to Respondent Nos.2 and 3 Flat No.103 in the building to be constructed on the subject plot on the terms and conditions set out in the above agreement.
3. Within 14 days from today, the Petitioner and the Respondents shall execute the tripartite Permanent Alternate Accommodation Agreement in respect of the new Flat bearing No.103 which is to be allotted to Respondent Nos.2 and 3 on the same terms and conditions as have been executed with the other members of Respondent No.1 society. Within the aforesaid 14 days period the parties shall cooperate with one another to admit execution and register the said agreement.
4. The Petitioner shall construct the building including the terrace admeasuring 194 sq.ft. (said terrace) abutting the Flat No.103 as shown in the sanctioned plan of MCGM (as approved under no CHE/WS-II/0824/R/C/337 (new dated 22nd May, 2017) and shall hand over the same to Respondent No.1. The Respondent No.1 society shall allow exclusive user of the said terrace to the member occupying Flat No-103.
5. Notwithstanding the above, the Respondent No.1 society shall be entitled to enter upon the said terrace with prior intimation for the purpose of carrying out repairs and maintenance of the building.
6. It is clarified that the Respondent Nos.2 and 3 shall be treated on parity with the other members of the society in terms of the agreements referred to above.
7. The area and/or layout of the Flat No.103 and area of the said terrace will not be altered without the prior written consent of the Respondent Nos.2 & 3.

8. The present arbitration petition is disposed of with no order as to costs.

3 Order in terms of the consent minutes of order. All undertakings given in the consent minutes of order are accepted and so ordered.

(K.R. SHRIRAM, J.)