

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
ARBITRATION PETITION NO. 707 OF 2017

M/s.Valdariya Constructions **..... Petitioner**

VERSUS

M/s.New Sangeeta CHS Ltd. **..... Respondent**

Mr.Vishal Ghosalkar for the Petitioner.

Mr.Pawan Pandey for the Respondent.

CORAM : R.D.DHANUKA, J.

DATE : 21st NOVEMBER, 2017

P.C.

By this petition filed under section 37 of the Arbitration and Conciliation Act, 1996, the petitioner has impugned the order dated 14th September, 2017 passed by the learned arbitrator granting various interim measures in the application filed by the society who is claimant before the learned arbitrator. The petitioner and the society had entered into the development agreement and also the Memorandum of Understanding by which the petitioner had agreed to pay the monthly compensation to the members of the society at the rate prescribed in those two agreements. Admittedly the petitioner has not paid the monthly compensation to the members of the society. By the impugned order, the learned arbitrator has directed the petitioner to pay the monthly compensation to five of the members of the original claimant society for the period August 2016 to August 2017.

2. Learned counsel for the petitioner does not dispute that the monthly compensation has not been paid to those five members. However it is the grievance of the petitioner that in view of the complaints made by some of the members of the original claimant society to the Municipal Corporation, the Corporation is not issuing further commencement certificate on the ground that the litigation between the petitioner, the society and its members is pending before the civil court as well as the learned arbitrator.

3. In my view, if the Corporation has not been issuing the commencement certificate to the petitioner, it cannot be a ground for not paying the monthly rent to those five members of the society in whose favour the learned arbitrator has passed the impugned order. It is for the petitioner to challenge the decision of the Municipal Corporation in not issuing the further commencement certificate.

4. It is made clear that this court has not expressed any views as to whether the conditions imposed by the Municipal Corporation for not issuing further commencement certificate is valid or not and the same can be decided in the appropriate proceedings by the appropriate court. I do not find any infirmity with the interim order passed by the learned arbitrator.

5. The arbitration petition is accordingly dismissed. No order as to costs.

(R.D.DHANUKA, J.)