

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

ARBITRATION PETITION NO.16 OF 2016

Malpani Construction Co. (P) Ltd.)....Petitioner
V/s.

Super Construction Company & Ors.)....Respondents

Mr.Sharan Jagtiani a/w Ms.Sheetal Shah i/by M/s.Mehta & Girdharlal
for petitioner.

Mr.Varun Vij i/by Vyas and Bhalwal for respondents.

CORAM : K.R.SHRIRAM,J

DATE : 16.11.2017

P.C.:-

1 Paragraph nos.5 & 6 of the order dated 26.10.2015 read
as under :-

“5. Learned senior counsel appearing for the respondents, on instructions, states that without prejudice to the rights and contentions of the respondents, until further orders, the respondents would not create any third party rights and/or part with possession or alienate or encumber in respect of the said flat. He submits that the respondents also have counter claim against the petitioner and seek leave to file an independent petition against the petitioner for interim reliefs. If the respondents file such a petition, the same can be considered by this Court on its own merit. Statement of the learned senior counsel for the respondents is accepted.

6. In view of the statement made by the learned senior counsel for the respondents which is without prejudice to the rights and contentions of the respondents, no further relief is warranted at this stage. Affidavit-in-reply shall be filed within four weeks from today. Rejoinder, if any, shall be filed within two weeks from the date of service of the affidavit-in-reply.”

2 Mr.Jagtiani appearing for petitioner states that arbitration proceedings have already been commenced in January-2016. Mr.Jagtiani states that the statement made on 26.10.2015 be continued as a statement pending the conclusion of arbitration proceedings and petitioner be given liberty to press for further reliefs if advised under Section 17 of the Arbitration and Conciliation Act 1996 and this petition accordingly be disposed.

3 Mr.Vij appearing for respondents states that if petitioner moves for further reliefs under Section 17 before the arbitrator, respondents should be given liberty to oppose the same including for re-calling the statement recorded in this order.

4 Keeping open rights and contentions of the parties as recorded above and as per request made by the counsel, petition stands disposed.

5 The statement to continue until further orders by the learned Arbitrator. Both the parties are at liberty to apply for further orders with respect to the statement in the order dated 26.10.2015 and any other reliefs.

(K.R.SHRIRAM,J)