

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
ARBITRATION PETITION NO.49 OF 2018**

Kirit Mohanlal Desai	...	Petitioner
versus		
Rohan Developers Pvt. Ltd.	...	Respondent

Mr. Deepen Dixit for Petitioner.
Mr. Arun Panickar i/by Mr. Milind B. Nar, for Respondent.
Mr. Kirit M. Desai, Petitioner present.
Mr. Pravin Mohanlal Desai, present.

**CORAM: S.J. KATHAWALLA, J.
DATE: 24th JANUARY, 2018**

P.C.:

1. Heard the learned Advocates for the parties and by consent, the following order is passed :

(i) The Respondent Developer shall hand over Flat No.803 to Mr.Ketan Trivedi, Commissioner for Taking Accounts, High Court, Bombay, who is appointed as a Commissioner and to take charge of the said Flat from the Developer.

(ii) The Commissioner shall continue to be incharge of the said flat and the Petitioner shall be allowed to use the said flat without claiming any equities until the Suit filed by the Praveen Mohanlal Desai in City Civil Court at Mumbai being No.1016 of 2016 is decided.

(iii) The Petitioner undertakes to pay maintenance to the Society and shall not claim any equities on the ground that he has paid maintenance to the Society.

(iv) If the electricity meter or any amenity is obtained in the name of the Petitioner, the Petitioner shall not claim any equity on the said ground.

(v) The Petitioner shall not sell, alienate, encumber, part with possession and/or create third party rights in respect of the said Flat.

(vi) The City Civil Court shall decide Suit No.1016 of 2016 within a period of one year from the date of this order.

(vii) The parties and/or their Advocates shall appear before the City Civil Court at Mumbai on 30th January, 2018 at 11.00 a.m., and after producing a copy of this order, obtain necessary directions in the matter.

(viii) The City Civil Court at Mumbai shall not grant adjournment/s to either side unless absolutely necessary.

(ix) All contentions of the parties are kept open.

(x) In view of this order, the question of referring the disputes between the Petitioner and Respondent to arbitration does not arise.

(xi) The parties will abide by the final orders passed by the City Civil Court in Suit No.1016 of 2016. Needless to add that the final order will be subject to the outcome of the Appeal and/or any other proceedings.

(xii) The Arbitration Petition is accordingly disposed off.

(S.J.KATHAWALLA, J.)