

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
ARBITRATION PETITION NO.186 OF 2018
WITH
ARBITRATION APPLICATION (L) NO.80 OF 2018**

Arth Housing Development Pvt. Ltd. ... Petitioner
versus
White Rose Co-op. Hsg. Soc. Ltd. ... Respondent

**WITH
SUIT NO.451 OF 2016
AND
NOTICE OF MOTION NO.1882 OF 2017**

Rattan Lalchand Mukhi and Anr. ... Plaintiffs
and
Arth Housing Development Pvt. Ltd. ... Defendants

Mr. Sanjay Jain with Mr. Nishant Sadidharan, Mr. Kalpesh Mehta, Ms. Mansi Shah
i/by M/s. Pravin Mehta and Mithi and Co., for Petitioner.
Mr. Dushant Purekar, for Respondent in ARBP No.186 of 2018.
Mr. Ramesh Ramamurthy for Plaintiffs in Suit No.451 of 2016.

CORAM: S.J. KATHAWALLA, J.

DATE: 8th MARCH, 2018

P.C.:

1. The Plaintiffs in the above Suit No.451 of 2016 through his Advocate, undertakes to take flats on the 11th and 12th floors instead of Flats on 14th and 15th Floors. The undertaking is accepted. All other conditions agreed by and between Arth Housing Development Pvt. Ltd., and Mr. Rattan Lalchand Mukhi and Bhavisha R. Mukhi under the Consent Terms dated 04-05-2016 shall remain unchanged.

2. By consent of the Petitioner and Respondent in the above Arbitration

Petition and Arbitration Application, the following order is passed :

(i) Mr. Atul Daga, Advocate is appointed as the sole Arbitrator to decide the disputes between the Applicant and Respondent arising out of the Development Agreement dated 11th July, 2013.

(ii) The disclosure of Mr. Atul Daga, Advocate under Section 11 (8) read with Section 12 (1) of the Arbitration and Conciliation Act, 1996 as amended by the Arbitration and Conciliation (Amendment) Act, 2015 (3 of 2016) is taken on record.

(iii) The parties shall appear before the learned Arbitrator in his chambers, on 9th March, 2018 at 05.30 p.m. and obtain necessary directions.

(iv) The present Petition filed under Section 9 of the Act, shall be treated as an Application under Section 17 of the Act and decided by the learned Arbitrator within a period of four weeks from the date of this order.

(v) The learned Arbitrator shall not grant adjournments to either side unless absolutely necessary.

(vi) The learned Arbitrator shall endeavour to pass his final Award within a period of six months from the date of this order.

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

(viii) The cost of arbitration shall initially be borne by the parties equally.

(ix) The venue of Arbitration shall be at Mumbai.

(x) In the event of the Applicant and Respondent filing any Consent Terms

before the learned Arbitrator, a copy of the same shall be forwarded to the Advocate of Mr and Mrs. Mukhi, four days prior to the filing of the Consent Terms to enable them to take steps if necessary.

(xi) The issue as to who should use the pump room is kept open. However, the Society shall be given access to the pump room to deal with the papers which are inside the pump room and equipments including CCTV camera, after giving 24 hours notice to the Petitioner.

(vii) In view of this order, the above Arbitration Petition, Arbitration Application and the Notice of Motion are disposed of.

(S.J.KATHAWALLA, J.)