

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

ARBITRATION PETITION NO. 994 OF 2016

Siddharth Nagar Ekta Suprabhat Co-op.Housing
Society Ltd.

...Petitioner

vs

M/s.S.D. Construction & Ors.

...Respondents

Mr.Tushar Gujar I/b. Solicis Lex for Petitioner.

Mr.Jitendra Gupta I/b. Ashok Bhatia for Respondent No.1.

Mr.P.G. Lad with Aparna Murlidharan for MHADA.

Mr.Rohan S. Mirpury for Respondent No.2.

Mr.A.B. Malvankar, Section Officer with Niranjana Chavan from Court Receiver office.

CORAM : S.C.GUPTE, J.

DATE : 3 DECEMBER 2018

P.C. :

The subject matter of this arbitration petition concerns an incomplete building in a redevelopment project. The building consists of a rehab portion as well as a free sale component. Out of nineteen proposed floors, seventeen have been completed under the supervision of an ad-hoc committee appointed by this court and through another developer, who was given the task of completing the construction. The dispute now pertains to construction of floor nos.18 and 19. Court Receiver, High Court, Bombay has been appointed by this court as receiver of the property.

2 The immediate grievance of the Petitioner is that that the Respondent developer has not been co-operating for further development

of the property. It is submitted that the Respondent, in particular, is required to execute an NOC for appointment of a new developer for construction of floors 18 and 19, but is not doing so.

3 Learned Counsel for the Respondent developer submits that his client has been co-operating with the Court Receiver. Learned Counsel submits that delay is being caused by the Petitioners themselves. Learned Counsel submits that he would like to put in a reply in this behalf.

4 After the matter is heard for some time, learned Counsel agree that the matter can now go before an arbitrator.

5 By consent of the Petitioner and Respondent no.1, Mr.Shyam Kapadia, Advocate, is appointed as a sole arbitrator to adjudicate upon disputes and differences between the Petitioner and Respondent No.1 arising out of the development agreement dated 17 August 2007 read with the original deed of modification dated 22 September 2009. The appointment is subject to his consent and disclosure. Any further reliefs that are to be sought in the arbitration reference may be applied for before the learned arbitrator under Section 17 of the Arbitration and Conciliation Act, 1996.

6 This arbitration petition is disposed of by continuing the status quo granted as well as the arrangement allowed by this court for a further period of eight weeks from today and reserving liberty to the parties to apply to the arbitrator under Section 17 of the Act for further reliefs including continuation of the reliefs already granted by this court.

7 All rights and contentions of the parties on merits are kept open.

(S.C. GUPTE, J.)