

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS COMMERCIAL DIVISION
ARBITRATION PETITION (L) NO.798 OF 2018**

Kalpataru Ltd. ... Petitioner
versus
Sanjog Co-op. Hsg. Soc. Ltd. and Ors. ... Respondents

Dr. V.V.Tulzapurkar, Senior Advocate with Mr. Saket Mone, Mr. Suneet Tyagi, Ms. Jayshree R., Mr. Vishesh Kalra, Mr. Sandeep Patil, Ms. Neha Joshi, i/by M/s. Vidhi Partners, for Petitioner.

Mr. Suneet Tyagi with Ms. Jayshree Ramachandran, for Respondent No.1.
Mr. Shreepad Murthy i/by Mr. Abhishek Patil, for Respondent Nos.2 and 3.

**CORAM: S.J. KATHAWALLA, J.
DATE: 23rd JULY, 2018**

P.C.:

1. The above Petition is filed under Section 9 of the Arbitration and Conciliation Act, 1996 seeking protective reliefs. The Petitioner is a developer who has undertaken redevelopment work of the building owned by the first Respondent Society. All the members of the Society have vacated their premises and handed over the same to the developer, save and except Flat No.28. The learned Advocate for Respondent Nos.2 and 3 have informed the Court that Flat No.27 stands in their names ; Flat No.28 belongs to one Ramsingh though it stands in the name of Respondent No. 10 ; Respondent Nos.2 to 11 are the heirs of Ramsingh Devraj Singh. However, Respondent Nos.2 and 3 are in possession of Flat No.28 and they are residing in the said flat since about 20 years; they have no objection in handing over

Flat No.28 to the developer to enable him to commence the redevelopment work.

2. Flat Nos.27 and 28 have been merged and used as a single flat by Respondent Nos.2 and 3. Flat no. 27 stands in the name of Respondent Nos. 2 and 3 and they are residing therein since more than 20 years. In view thereof, the corpus as well as the monthly compensation in lieu of temporary alternate accommodation as well as brokerage and shifting charges as agreed under the Development Agreement shall be paid to Respondent Nos.2 and 3 by the developer. Respondent Nos.2 and 3 undertake that if any amounts are directed to be brought back by any Court, they shall do so.

3. As far as Flat No.28 is concerned, though the same stands in the name of Respondent No.10, Respondent Nos.2 and 3 are residing in the said flat since more than 20 years. Therefore, the corpus payable in respect of the said flat, shall be deposited by the developer with the Registrar, City Civil Court, Mumbai in Suit No.9726 of 1990, which amount shall be invested in fixed deposit of a nationalized bank initially for a period of one year and renewed thereafter from time to time. However, the monthly compensation in lieu of temporary alternate accommodation as well as brokerage and shifting charges as agreed under the Development Agreement shall be paid to Respondent Nos.2 and 3 by the developer. Respondent Nos.2 and 3 undertake that if any amounts are directed by any Court to be brought back to the Court, they undertake to do the same.

4. Respondent Nos.2 and 3 undertake to give vacant possession of Flat No.28 to the developer on or before 30th July, 2018.
5. The above undertakings are accepted.
6. As far as the execution of the agreement for permanent alternate accommodation is concerned, the parties shall be at liberty to move the City Civil Court seeking appropriate reliefs.
7. All contentions of the parties in pending legal proceedings are kept open.
8. The above Arbitration Petition is accordingly disposed of.

(S.J.KATHAWALLA, J.)