

Vidya Amin

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

ARBITRATION PETITION NO. 65 OF 2019

Vijay Kale & Anr.	...	Petitioners
V/s.		
Sagar Ganga Developers & Anr.	...	Respondents

Mr. Aloukik R. Pai a/w. Ms. Neuty N. Thakkar i/b. Ms. Apurva M. Bhat for the petitioners.

Ms. Swapna Roopavate i/b. Mr. Tushar Goradia for respondent no. 1.

CORAM : G.S.KULKARNI, J.

DATE : 24th July, 2019

P.C.:

Heard learned counsel for the petitioner and learned counsel for respondent no. 1.

2. Respondent no. 2 is a Cooperative Housing Society and is not a party to the Arbitration Agreement, hence respondent no. 2 is permitted to be deleted. Amendment to be carried out forthwith.

3. At the outset, Mr. Pai, learned counsel for the petitioners submits that the petitioners will deposit the deficit stamp duty payable in respect of petitioner no. 2-Mr.V.K. Mitra.

4. This is a Petition filed under section 11 of the Arbitration and

Conciliation Act, 1996 (for short, “the Act”) whereby the petitioners, who are flat purchasers and members of Blue Bay Cooperative Housing Society situated at Plot No. 16, Sector No. 40, Nerul (W), Navi Mumbai, have prayed for appointment of an arbitral tribunal to adjudicate the disputes and differences, which are stated to have arisen between the parties under the Agreement for Sale entered by respondent no. 1 with the petitioners. There is no dispute in regard to the arbitration agreement between the parties which is contained in Clause 41 of the respective agreements.

5. The petitioners by its advocate’s notice dated 6th December, 2018 addressed to respondent no. 1 invoked the arbitration agreement and requested respondent no. 1 to appoint an arbitral tribunal to adjudicate the disputes as arisen between the parties. As there was no response to the invocation letter, a reminder letter was issued. As no steps were taken on the part of respondent no. 1 to appoint an arbitral tribunal, this Petition is filed.

6. After this Petition was heard for sometime, learned counsel for the respondent fairly submits that her clients are agreeable for appointment of an arbitral tribunal to adjudicate the disputes and

difference between the parties.

7. In view of the consensus between the parties, the Petition is required to be allowed. Hence, the following order:

ORDER

- (i) Smt. Justice Mridula Bhatkar, Former judge of this Court is appointed as a sole arbitrator to adjudicate the disputes between the parties under the Agreement for Sale entered by respondent no. 1 with the petitioner.
- (ii) The learned prospective sole arbitrator, ten days before entering the arbitration reference, shall forward a statement of disclosure as per the requirement of Section 11(8) read with Section 12(1) of the Arbitration and Conciliation Act, 1996, to the Registrar (Judicial-I) of this Court, to be placed on record of this application with a copy to be forwarded to both the parties;
- (iii) The fees payable to the arbitral tribunal shall be as prescribed under the Bombay High Court (Fees Payable to Arbitrators) Rules, 2018.
- (iv) At the first instance, the parties shall appear before the prospective arbitrator within 10 days from today on a date

which may be mutually fixed by the prospective sole arbitrator;

- (v) All contentions of the parties are expressly kept open;
- (vi) Petition is disposed of on above terms.
- (vii) Office to forward a copy of this order to the learned

Arbitrator on the following address:

Flat No. 501, "Saket"
Near Balmohan Vidyamandir,
Dr. M.B. Raut Marg, Shivaji Park,
Dadar (W), Mumbai – 400 028.
(M) – 9320691980
E-mail : jmridula@gmail.com

(G.S.KULKARNI, J.)