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

**COMMERCIAL ARBITRATION PETITION NO.728 OF 2019  
WITH  
CIVIL APPELLATE SIDE  
ARBITRATION PETITION NO.81 OF 2019**

|                               |     |            |
|-------------------------------|-----|------------|
| Pawar Builders and Developers | ... | Petitioner |
| V/s.                          |     |            |
| Mahendra Sitaram Arekar       | ... | Respondent |

Mr. Firoz Bharucha i/by Deepan V. Dixit, for the Petitioner.  
Mr. Kunal Katariya a/w Ms. Pooja bhaidkar i/by Aagam J.  
Doshi, for respondent

**CORAM : G. S. KULKARNI, J.**

**DATE : 26<sup>th</sup> September, 2019.**

**PC. :**

- 1] Heard learned counsel for the parties.
- 2] Commercial Arbitration Petition No.728 of 2019 is filed under Section 9 of the Arbitration and Conciliation Act,1996 (for short, “the Act”), and Arbitration Petition No.81 of 2019 is filed under Section 11 of the Act, for appointment of an arbitral tribunal.
- 3] After these petitions were heard for some time, learned counsel for the parties are agreeable that the disputes and differences arising between the parties under the Development Agreement dated 13<sup>th</sup> October, 2015 be referred for adjudication by appointing sole arbitration. Learned counsel

for the parties also agree that petition filed under Section 9 of the Act be permitted to be converted into Section 17 application to be adjudicated by the arbitral tribunal. Admittedly the development agreement contains arbitration clause. The clause No.41 of the agreement reads thus :-

“41. If there is any dispute between the party of the first part and the party of the second part in respect of this agreement for the said property, the same shall be referred to the third party agreed by and between the party of the first part and the party of the second part. In the circumstances if there is any dispute both the parties shall appoint Arbitrator and shall resolve the said dispute”.

4] In view of the consensus between the parties, the petition is disposed of by following order:-

Order.

i] Mr Aditya Mehta, Advocate, is appointed as the sole arbitrator to adjudicate the disputes and differences between the parties, arising under the agreement dated 13<sup>th</sup> October, 2015;

ii] The prospective sole arbitrator, fifteen days before entering the arbitration reference, shall forward a statement of disclosure as per the provisions of Section 11(8) read with Section 12(1) of the Arbitration and Conciliation Act, 1996, to the Prothonotary & Senior Master of this Court, to be placed on record of these applications with a copy to be forwarded to both the parties;

iii) Commercial Arbitration Petition No.728 of 2019 filed under Section 9 be converted into Section 17 Application.

iv] At the first instance, the parties shall appear before the prospective arbitrator within 10 days from today at a date and time as may be fixed by the prospective arbitrator.

v] The learned arbitrator shall endeavour to publish an award as expeditiously as possible and within the time limit as prescribed under Section 29-A of the Act;

vi] The fees of the arbitral tribunal shall be as prescribed under the Bombay High Court (Fees Payable to Arbitrators) Rules, 2018;

vii) All contentions of the parties on merits of the matter are expressly kept open.

(viii) The Arbitration petition is disposed of in the above terms.  
No costs.

5] Office to forward a copy of this order to the learned Arbitrator on the following address:-

Mr. Aditya Mehta, advocate.  
4<sup>th</sup> floor  
techno Heritage Building  
76 Nagindas Master road,  
fort, Mumbai 400 001.

Mobile No.9619290824.

**[G. S. KULKARNI, J]**