

psv

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

**CONTEMPT PETITION NO.11 OF 2017
IN
ARBITRATION PETITION NO.302 OF 2015**

Mr.Amey Jayant Avalaskar & Ors. ..Petitioners
Vs.
Mr.Mohammed Mustafa Shaikh & Anr. ..Respondents

Mr.Anand Mishra i/b. Mr.A.M. Saraogi for Petitioners.
Mr.Rajeshwar N. i/b. M/s.Jaykar & Partners for Respondent No.1.
Ms.Juanita Menezes i/b. Mr.Omkar Nagwekar for Respondent No.2.

CORAM : G.S. KULKARNI, J.

DATE : 15th JULY, 2019

P.C.:

Heard learned Counsel for the petitioners, learned Counsel for respondent No.1 and learned Counsel for respondent No.2.

2. The contempt which is alleged in the present petition is of the order dated 26 June 2015 passed by this Court (K.R. Shriram, J.) whereby statement as made on behalf of respondent Nos.1 and 2 came to be recorded in terms of the affidavit they had submitted before the Court in the said proceedings.

3. As it is stated that respondent No.1 is no more concerned with the

project as he has assigned and handed over all his rights and liabilities of the project in favour of respondent No.2 and it is the respondent No.2 who is now wholly and solely responsible to undertake the project and to complete it, as per undertaking recorded in the order dated 26 June 2019 of which contempt is alleged.

4. Learned Counsel for the petitioners and learned Counsel for respondent No.2 have tendered Consent Terms by which it is stated that the disputes between the parties arising in the present proceedings stand resolved. It is submitted that respondent No.1 Mr.Mohammed Mustafa Shaikh who is represented by Advocate Mr.Rajeshwar is not a party to the Consent Terms and the Consent Terms, would not in any manner be binding on the respondent No.1. Statement as made on behalf of the petitioners and respondent No.2 is accepted. The Consent Terms are executed before Mr.Ramesh C. Pal, Notary, on 9 July 2019. The signatures of the parties appearing on the Consent Terms are identified by the Notary as also by the Advocates who are representing them before this Court who have also signed the Consent Terms. It is stated that there is no dispute on the signatures as made on the Consent Terms. The Consent Terms are taken on record and marked “X” for identification.

5. All statements made by respondent No.2 in the Consent Terms are taken as his obligations and undertaking as the parties are desirous to have an order in terms of the consent terms.

6. Learned Counsel for respondent No.2 on instructions of her client who is present in the Court makes a statement that the petitioners would be put in possession of the flat No.403, 4th floor of the building in question within four months from today and paragraphs 5 and 6 of the Consent Terms are accordingly read and understood. Statement as made on behalf of respondent No.2 is accepted.

7. The petition is disposed of in terms of the Consent Terms, however with a liberty to the petitioners to revive this petition or file a fresh contempt petition, if need so arises. No costs.

[G.S. KULKARNI, J.]