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

ARBITRATION PETITION (L) NO.133 OF 2019

The Tilak Shivam CHS Ltd. V/s. M/s Shreenathaji Developers Pvt. Ltd andors	...	Petitioner Respondents
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Mr. Sujit B. Shelar, for the Petitioner.
Mr. Ranbit Singh with Mr. HirenG. Shah i/by Prakash & Co.
for respondent.

CORAM : G. S. KULKARNI, J.

DATE : 27th MARCH, 2019.

P.C. :

1] Heard Mr. Sujit Shelar, learned counsel for the petitioner and Mr. Ranbir Singh, learned counsel for Respondent. On 27th February, 2019, this petition was heard when on behalf of respondent it was stated that the respondents are willing to amicably resolve the disputes which have arisen between the parties under the Development Agreement dated 28.12.2011 and supplementary agreement dated 6.9.2013 in respect of property being building No.39, Survey No.4 (Part), C.T.S. No.24 (Part) at Tilak Nagar, Chembur, Mumbai 400089.

2] Today learned counsel for the respondent submits that though

there were several meetings as held between the parties, the parties were not in position to reach an amicable settlement of the dispute.

3] On the above background after this petition was heard for some time, learned counsel for the parties, on instructions, are agreeable that the disputes and differences between the parties as arisen under above stated agreement, be referred to the adjudication by an arbitral tribunal. The development agreement contains an arbitration clause, which is not in dispute. Learned counsel for respondent makes statement that the present petition itself be considered as a notice of the invocation of arbitration agreement and that an objection in this regard shall not be taken on behalf of respondent and that the respondent will not insist for a notice to be issued invoking the arbitration agreement. Learned counsel for the respondent has no objection to this course of action. It is also agreed between the parties that this petition under Section 9 of the ACA, be permitted to be treated as application under Section 17 of the ACA, to be adjudicated by the Arbitral Tribunal.

4] In view of consensus between the parties, this petition is accordingly required to be disposed of by following order:-

Order

- i] Mr. Sham Kapadia, Advocate, is appointed as the prospective sole Arbitrator to adjudicate the disputes and differences between the parties,

arising under the Development Agreement dated 28th December, 2013 and Supplementary Agreement dated 6.9.2013;

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] The petitioner is permitted to convert this petition filed under Section 9 of the Arbitration and Conciliation Act, 1996 as an application under Section 17 of the ACA to be adjudicated by the arbitral tribunal;

iv] The arbitral Tribunal shall endeavour to adjudicate application under Section 17 of the ACA as expeditiously as possible preferably within a period of six weeks from the date of entering into reference.

v) The respondents are permitted to file their reply to Section 17 Application;

vi] At the first instance, the parties shall appear before the prospective arbitrator within one week from today at a date and time as may be fixed by the prospective arbitrator;

(viii) All contentions of the parties are expressly kept open.

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

costs.

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

11-C Examiner Press Building
Dalal Street
Fort, Mumbai 400 001.

5] Learned counsel for respondent makes a statement that in regard to the payments of the property tax, respondent shall take up the matter with the Municipal Corporation. Statement is accepted.

[G. S. KULKARNI, J]