

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

ARBITRATION PETITION No. 859 of 2018

Niraj G. Kakad

..Petitioner.

Vs

Tulsibai Sunderdas Jagasia & Ors

..Respondents.

Mr. Anil D'Souza, Advocate for the Petitioner.

Mr. P.J. Thorat a/with Ms. Aditi Naikare for the Respondents.

CORAM : B. P. COLABAWALLA, J.

DATED :- 17TH JANUARY, 2019.

P.C. :

1 This Arbitration Petition has been filed seeking to challenge the order passed by the Arbitral Tribunal dated 2nd May, 2018 passed under Section 17 of the Arbitration and Conciliation Act, 1996 (“**the Act**” for short). It has been brought to my notice that after passing of this order, evidence of both parties has already concluded before the Arbitral Tribunal and the matter is now fixed on 9th February, 2019 for final arguments. In these circumstances, the learned Counsel appearing for the respondents stated that there was no necessity to entertain this arbitration petition under Section 37 of the Act.

2 I have heard the learned Counsel appearing on behalf of the petitioner as well as for the respondents at some length.

3 After the matter was argued for some time, the learned Counsel for the petitioner, on instructions of the petitioner who is present in Court, undertakes that pending the hearing and final disposal of the arbitration proceedings the petitioner shall not create any further third party rights or interests in respect of the subject property (which is more particularly described in Paragraph 3 of the impugned order), in any manner whatsoever. A further statement is made on behalf of the petitioner that he, either through himself or any one claiming through him, shall not enter the subject property and neither shall he take any further steps for redevelopment of the said property. These statements made by the petitioner are accepted as undertakings given to this Court.

4 It is made clear that the above statements are without prejudice to the rights and contentions of all parties. In my opinion, the statements made by the petitioner and which have been accepted as undertakings given to this Court, would

adequately protect the interests of the respondents. The operative part of impugned order therefore is substituted with this order. It is made clear that the reliefs granted by the Tribunal in terms of prayer clauses (b) and (g) are set aside in view of the fact that the arbitration proceedings are virtually at end and the Award is likely to be passed by the end of February, 2019.

5 The arbitration petition is disposed of in the aforesaid terms. There shall be no order as to costs.

6 It is made clear that both parties shall co-operate with each other in a quick disposal of the arbitration proceedings. The Arbitral Tribunal is requested to expeditiously hear the parties before it and endeavour to pass a final Award by 1st March, 2019.

7 Needless to clarify that any observations made in the impugned order are only prima facie in nature and shall not influence the Arbitral Tribunal in any manner while passing the final Award which shall be passed on its own merits and in accordance with law.

(B.P. COLABAWALLA, J.)