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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS COMMERCIAL DIVISION

COMMERCIAL ARBITRATION PETITION (LDG.) NO.695 OF 2019

Orra Realtors Pvt. Ltd.	...Petitioner
V/s.	
Vile Parle Mayur Co-op. Hsg. Soc. Ltd.	...Respondent

Mr.Atul G. Damle, Senior Counsel with Mr.Diwakar R. Singh and Ms.Angana Sarmah for the Petitioner.

Mr.Sheelang Shah with Mr.Sarika Mehra I/b M/s.LJ Law for the Respondent.

CORAM : R.D. DHANUKA, J.
DATE : 10TH OCTOBER, 2019.

P.C. :-

1. By this petition filed under section 34 of the Arbitration & Conciliation Act, 1996, the petitioner has impugned the arbitral award dated 10th April, 2019 rendered by the learned arbitrator thereby rejecting the claims for specific performance of the development agreement dated 29th January, 2011 filed by the petitioner. Learned arbitrator has also rejected the counter claim made by the respondent society. The respondent has not filed any separate petition impugning part of the arbitral award rejecting the counter claim filed by the respondent.

2. Admittedly the development agreement was entered into between the parties on 29th January, 2011. The respondent has terminated the Development Agreement by a letter dated 29th

December, 2015 on various grounds.

3. The petition is filed mainly on two grounds i.e. that though there was no delay on the part of the petitioner or in any event the petitioner was not responsible for such delay, the learned arbitrator has rendered various findings on that issue against the petitioner. The next ground raised in the petition is that the learned arbitrator has rejected the submission regarding TDR loaded by the petitioner on the property by holding that the petitioner would be entitled to have such TDR transferred back to the petitioner.

4. Insofar the second submission of Mr.Damle, learned senior counsel for the petitioner that the argument regarding TDR could not have been rejected by the learned arbitrator, a perusal of paragraphs 42 and 43 of the impugned award clearly indicates that the learned arbitrator has protected the rights of the petitioner, if any, regarding TDR alleged to have been loaded on the property in question by holding that the petitioner would be entitled to transfer back of the TDR which the respondent alleged to have utilized on the suit property. There is thus no merit in this submission raised by the learned senior counsel for the petitioner. The respondent does not claim any rights over the said TDR.

5. Insofar as the issue of delay considered by the learned arbitrator is concerned, a perusal of the impugned arbitral award clearly indicates that the learned arbitrator has rendered finding of fact that though the Development Agreement was entered into as far

back as on 29th January, 2011 since there was not much progress by the petitioner, the said Development Agreement was rightly terminated by the society by a letter dated 29th December, 2015. The findings rendered by the learned arbitrator being not perverse cannot be interfered by this Court in this petition filed under section 34 of the Arbitration Act. The petition is devoid of merit and is accordingly dismissed. There shall be no order as to costs.

(R.D. DHANUKA, J.)