

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
ARBITRATION APPLICATION (L) NO.271 OF 2019
WITH
SHOW CAUSE NOTICE NO.121 OF 2018
WITH
SHOW CAUSE NOTICE NO.191 OF 2018
IN
ARBITRATION PETITION NO.555 OF 2018**

The Niwara Co-op. Hos. Soc. Ltd.Applicant

Vs.

Vastukala DevelopersRespondent

Mr. Shailendra Singh for applicant.

Ms. Bhavika Mardekar a/w. Ms. Bhakti Sutar I/b. Mr. Vikas K. Mahangare
for respondent.

Ms. Dhruti M. Kapadia a/w. Mr. Dadasaheb S. Shingade for MCGM.

Mr. Mahendra Mhatre, proprietor of respondent present.

CORAM : K.R.SHRIRAM, J.

DATE : 26th JULY 2019

P.C.:

1 By consent, Mr. K.G. Munshi, an Advocate practicing in this Court and having his office at Currimjee Building, 1st Floor, 111-A, Mahatma Gandhi Road, Mumbai – 400 023 (Mobile No.9820075642/Telephone No.2267 3531) is appointed as sole Arbitrator to arbitrate on all disputes between applicant and respondent arising out of or in connection with or relating to Development Agreement dated 11th April 2013 read with Supplementary Development Agreement dated 25th September 2014 read with Agreement for Permanent Alternate Accommodation dated

28th November 2014 and its termination vide letter dated 18th November 2018 and counter claim, if any.

2 The fees and administrative expenses of the Arbitrator to be shared equally between applicant and respondent and the same will be subject to cost in the arbitral proceedings. All rights and contentions of the parties are kept open expressly but parties cannot raise any dispute on the jurisdiction of the Arbitrator to arbitrate on the agreements mentioned above.

3 The Arbitrator shall make a disclosure in writing as required under Section 11 (8) read with Section 12 (1) of the Arbitration and Conciliation Act, 1996 directly to the advocates for applicant as well as respondent.

4 Application accordingly stands disposed.

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5 Ms. Mardekar appearing for respondent, on instructions from respondent – Mr. Mhatre, apologises for any misstatement made as recorded by this Court in its order. Ms. Mardekar states that an affidavit in reply has also been filed. Mr. Singh states that ofcourse these are nothing but paper apologies. Ms. Mardekar states that henceforth respondent will not say or do

something which would come in the way of administration of justice and Mr. Mhatre will also maintain his best behavior and conduct in the arbitration proceedings.

6 Therefore, for the moment I am not passing any orders in the two show cause notices but I will simply differ it to 8th November 2019. I hope that we may not have to take any further action against respondent.

(K.R. SHRIRAM, J.)