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

COMMERCIAL ARBITRATION PETITION NO.5 OF 2017

Jagadusha Nagar Avadhut CHS Ltd	...	Petitioner
V/s.		
Kumar Urban Development Pvt. Ltd.		
and anr	...	Respondents

**ALONGWITH
CHAMBER SUMMONS NO.57 OF 2017
IN
COMMERCIAL ARBITRATION PETITION NO.5 OF 2017**

Jagadusha Nagar Avadhut CHS Ltd	...	Petitioner
V/s.		
Kumar Housing Corporation Pvt.Ltd	...	Respondent

- Mr. Akshay Patil a/w Paras Gosar i/by Jayesh Vyas,for the Petitioner.
- Mr.Karl Tamboly a/w Ms. Aditi Phatak, Mr. Murlidhar Kumar i/by Udwadia & Co., for respondent
- Mr.Rajiv Chavan, Senior Advocate a/w Ms. Priyanka Chavan i/by R. Y. Sirsikar, for respondent corporation.
- Mr. H.B. Takke, AGP for State.
- Ms. Sapna Krishnappa, for applicant in Chamber Summons Nos. 1406 of 2016 and 1407 of 2016

CORAM : G. S. KULKARNI, J.

DATE : 13th FEBRUARY, 2019.

P.C. :

1] Heard learned counsel for the petitioner, learned counsel

for respondent No.1 and learned Senior Counsel for the respondent corporation.

2] This petition is filed under Section 9 of the Arbitration and Conciliation Act, 1996 praying for various interim reliefs.

3] By an order dated 17th December, 2018 passed by this Court (Corm: B. P. Colabawalla, J.), in Commercial Arbitration Petition No.1157 of 2015, an Arbitrator was appointed to adjudicate the dispute between the parties. The relevant extract of the said order reads thus :-

"3. In view of this consensus, the Hon'ble S.J. Vazifdar (Retired Chief Justice of Punjab and Haryana High Court), is appointed as a Sole Arbitrator to decide the disputes and differences between the Petitioner and respondent herein. Considering that the new Arbitrator has been appointed today, the time to complete the arbitration proceedings and to pass a final award is also extended by consent of parties for a period of one year from today. Both the parties further agree that if for any reason the arbitration cannot be completed within a period of one year from today, then they both will consent before the Arbitrator to extend the time for a further period of six months as contemplated in Section 29A(3) of the Act. The Arbitration Petition is disposed of in the aforesaid terms. However there shall be no order as to costs".

4] Learned counsel for the petitioner fairly concedes that as already an arbitral tribunal is appointed and considering the provisions of Section 9 sub-section (3), it would be appropriate to convert this Section 9 petition into an application under Section 17 of the Act, to be adjudicated by the arbitral Tribunal.

5] The petition can accordingly be conveniently disposed of by permitting the petitioner to convert this petition as filed under Section 9 of the Act, into an Application under Section 17, to be adjudicated by the sole Arbitrator.

6] The Arbitral Tribunal shall endeavour to dispose of Section 17 application as expeditiously as possible preferably within a period of four months from it being presented before the Arbitral Tribunal.

7] Needless to observe that respondent may take appropriate steps to recover outstanding property tax, water charges and other municipal taxes in respect of said property.

8] Mr. Karl Tamboly, learned counsel for respondents submits that the debris is already removed as directed by this Court. Statement is accepted. Learned counsel for the petitioner submits that some debris is lying on the top floor which Mr. Tamboly, on instruction of his client, states that the same, if any, would also be removed. Statement is accepted.

Disposed of in the above terms. No costs.

9] Pending Chamber Summons No 57 of 2017, does not survive and the same is disposed of.

[G. S. KULKARNI, J]