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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

COMMERCIAL ARBITRATION PETITION NO.60 OF 2016

Dipti Spaces Pvt. Ltd.

...Petitioner

vs

The Chairman/Secretary Post And Telegraph
Staff Mitra Mandal Co-Op. Hsg. Society & Ors.

...Respondents

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Mr. A.Q. Motiwala, for the Petitioner.

Mr. Kishor V. Tambe, for Respondent No.1.

Mr. Shripad Murthy, a/w. Mr. Abhishek Patil, Ms. Shirin Irani and Mr. Sunil Boke, i/b. Mr. Ravindra V. Sankpal, for Respondent Nos. 3 to 16, 18 to 24, 27, 28, 30 to 32, 35, 37 and 39.

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CORAM : S.C. GUPTE, J.

DATED: 11 JANUARY, 2019

P.C. :

. Heard learned Counsel for the parties. This arbitration petition seeks interim protection under Section 9 of the Arbitration and Conciliation Act, 1996 *inter alia* for delivery of possession of the flats held by non-co-operating members of the first Respondent-society in a redevelopment project. The application is made by the developer of the redevelopment project. It is submitted on behalf of the Petitioner-developer that since the filing of the present petition, the Respondents have handed over vacant possession of their respective premises and the existing building has already been demolished after the possession was so surrendered. Learned Counsel, in the premises, submits that this

arbitration petition has in effect become infructuous. Learned Counsel for Respondent Nos. 3 to 16, 18 to 24, 27, 28, 30 to 32, 35, 37 and 39 informs the Court that there is a connected matter, namely, Commercial Suit No. 443 of 2017, filed by his clients against the Petitioner herein challenging *inter alia* the subject development agreement. Learned Counsel submits that his clients want that suit to be heard along with the present arbitration petition. Learned Counsel submits that this application was made on the last occasion, i.e. on 12 December 2018, and in view of that application, the commercial suit was stood over. It is an admitted position that as of today, no such order was obtained for clubbing of the two matters and assigning the companion commercial suit to this Court. Now, that I have heard the matter and have seen that effectively there is no further relief to be granted in the arbitration petition, since the main prayer in the arbitration petition has already stood worked out, I am not inclined to adjourn the arbitration petition herein so as to be heard along with the suit. The arbitration petition is disposed of as infructuous. No order as to costs.

(S.C. GUPTE, J.)