

Tauseef

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

COMMERCIAL ARBITRATION PETITION (L.) NO.1147 OF 2019

M/s. Reliance Developers

...Petitioner

V/S.

Dindoshi Shraddha Co-op.

Housing Society Ltd.

...Respondent

Dr. Birendra Saraf a/w. Dharam Juman, Rushabh Parekh I/b. ABH Law LLP for ABH Law LLP for Petitioner.

Sr. Advocate Atul Damle a/w. A.R. Shaikh I/b. A.S.D. Associate for Respondent No.1.

Sunil Shirke, Secretary on Society.

CORAM : G.S. KULKARNI, J.

Date : 26th SEPTEMBER 2019.

P.C.:

1. Heard learned counsel for the parties, on this petition filed under Section 9 of the Arbitration and Conciliation Act, 1996. Admittedly the parties are appearing before the arbitral tribunal. The apprehension of the Petitioner is breach of the statements which are made on behalf of the Respondent before the arbitral tribunal and recorded in the minutes of the meeting held on 18 December 2014, whereby, the Respondent made a statement that the if Respondent society in future decides to go ahead with the work of redevelopment with any builder other than the Petitioner – claimant, then the Respondent – Society shall intimate in writing to the claimant atleast three weeks in advance prior to executing any agreement or an understanding in writing with such a new developer.

2. Learned counsel for the Petitioner refers to the letter dated 14 September 2019 issued by the Respondent – Society to one Mr. Vinay Singh of M/s. JE & VEE Infrastructure stating that the offer as made by M/s. JE & VEE Infrastructure was considered by the society. He further records that M/s. JE & VEE Infrastructure will proceed and take proper steps for redevelopment of the premises in accordance with the rules and regulations as early as possible. Petitioner has also referred to a notice dated 12 September 2019 issued by the Respondent to convene an Annual General Meeting on 29 September 2019 at 5.00 pm to discuss issues and one of the issues, on the agenda being presentation by M/s. JE & VEE Infrastructure. On the above backdrop the contention of the petitioner is that the statement as made before the tribunal is sought to be breached by the Respondent.

3. Mr. Damle, learned senior counsel for the Respondent not disputing the issuance of letter dated 14 September 2019 issued by the respondent to Mr. Vinay Singh of M/s. JE & VEE Infrastructure and also considering the statement as made on behalf of the Respondent before the arbitral tribunal, would make a statement that till the scheduled hearing fixed before the arbitral tribunal on 15 October 2019, the respondent shall not enter into any development agreement with M/s. JE & VEE Infrastructure and if a decision is taken in that regard in the AGM on 29

September 2019, the same shall not be implemented till the arbitral tribunal passes appropriate orders. The statement as made by Mr. Damle, learned senior counsel for the respondent is accepted.

4. It would be appropriate that in the facts and circumstances of the case, the parties address these issues before the arbitral tribunal. It is fairly stated that although the arbitral tribunal was already constituted, due to reasons of health, the learned sole arbitrator was not available till yesterday, and hence, this petition under Section 9 was required to be moved. In view of the statement as made on behalf of the Respondents further adjudication of the petition is not called for. It is accordingly disposed of, however, subject to the above orders. All contentions of the parties are expressly kept open.

5. The petitioner is permitted to move appropriate application before the arbitral tribunal, on the scheduled date of hearing. Mr. Damle has made the statement as recorded, on the instructions of the Secretary of the Respondent – Society, who is present in the court.

6. Accordingly, the petition is disposed of in the above terms.
No costs.

(G.S. KULKARNI, J.)