

psv

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

COMMERCIAL ARBITRATION PETITION NO.1380 OF 2018

Manish Harshadbhai Shah

..Petitioner

Vs.

Praful Lalji Sanathra

..Respondent

Mr.Sachin Masurkar with Ms.Aarti Kulkarni and Mr.Nilesh Parab for
Petitioner.

Mr.P.L. Sanathra, Respondent in person.

CORAM : G.S. KULKARNI, J.

DATE : 16th JANUARY, 2019

P.C.:

Heard learned Counsel for the petitioner. Mr.Praful Sanathra, respondent has appeared in person. The Court has discussed the controversy/disputes that have arisen between the parties. It appears to be purely a financial dispute between the petitioner and the respondent arising under the partnership agreement between the parties. The partnership firm is undertaking redevelopment of a building known as Swatantra Bharat Bhavan, situated at Dadar in Mumbai. The case of the petitioner is that he has spent huge sum of Rs.6 Crores in the said project and the respondent has not contributed to the said project.

2. On the other hand, the respondent submits that he has undertaken certain works. The tenants of the building are also present who say that their interest is seriously affected because of the disputes between the partners. The old building is already demolished. On site, the plinth work is already over and some work on the plinth is also carried out.

3. Considering that the disputes are quite narrow, both the parties agree that they can attempt to resolve the disputes by referring the disputes which are basically on accounts of the firm, to a Chartered Accountant who be appointed by the court.

4. Considering the facts of the case, it would be in the interest of justice that the financial disputes between the parties are resolved in a mediation, so that the parties can appropriately stand in their business relationship qua the project in hand which is not prejudicially affected. The parties will have to take a pragmatic approach in the mediation, keeping in mind that the project is still alive and that the tenements are already dis-housed.

5. In the above circumstances, keeping all contentions of the parties open, I am inclined to appoint Mrs.Roshan P. Nanavati, Chartered

Accountant, having address at 26/1 Bhupen Chambers, Dalal Street, Mumbai – 400 023, mobile Nos.9869202240 / 9323842716, office Nos.22642314 / 24942716 / 56002432, as a Mediator who would undertake the mediation in regard to the financial disputes between the parties and endeavour to resolve the disputes.

6. The petitioner and the respondent shall approach the learned mediator on 18 January 2019 at a mutually convenient time as may be fixed by the learned mediator.

7. Learned Counsel for the petitioner submits that in view of this order, the petition can be disposed of keeping all contentions of the petitioner open to be agitated in the further proceedings as and when necessary. Needless to observe that even the contentions of the respondent are expressly kept open.

8. The petition is disposed of in the above terms. No costs.

[G.S. KULKARNI, J.]