

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

INTERIM APPLICATION (LODGING) NO.2483 OF 2020

IN

SUTT (LODGING) NO.154 OF 2020

Mahesh Developers Ltd.

...Applicant-Intervenor

In the matter between

Seena Niwas Co-op. Housing Society Ltd. & Ors.

...Plaintiffs

V/s.

Roshanlal S. Medh & Ors.

...Defendants

Mr. Ram U. Singh for the Applicant-Intervenor.

Ms. Veena Thadani, with Mr. Vishal Thadani, for the Plaintiffs.

CORAM : A. K. MENON, J.

DATED : 4TH NOVEMBER, 2020.

(THROUGH VIDEO CONFERENCE)

P.C. :

1. This is an intervention application filed by the applicant, who claims to be a developer and had an agreement with the plaintiff no.1-society. That development agreement came to be terminated on 29th July 2019. Plaintiff no.1-society has a claim against the present applicant. That claim is subject matter of the arbitration and an application under section 9 of the Arbitration and Conciliation Act is pending.

2. Mr. Singh, learned counsel in support of this application states that notwithstanding the pendency of the arbitral proceedings, his client has spent a substantial amount pursuant to his appointed as a developer. That although

he had, vide letter dated 6th March 2019, annexed at Exhibit-E to the plaint, expressed his inability in proceeding with the redevelopment work on the initially agreed terms and that he would be agreed to carry out redevelopment work on the revised terms, the applicant has expressly stated that the society has the option of negotiating the other builder and that they would give their no objection subject to their expenses being reimbursed. Thus, it is evident that the applicant has no say in the matter of redevelopment and that he has a monetary claim.

3. On behalf of the plaintiffs, it is submitted that the society has a claim of Rs.3 crores against the applicant and that arbitration clause having been invoked, those claims will be decided in arbitration reference. Applicant's prayer will also be considered in the arbitration proceedings.

4. In that view of the matter, there is no occasion to permit the intervention by the applicant in the present suit. The plaintiffs have correctly not joined the applicant in the suit as a defendant. As regards the issue of reimbursement of expenses, that issue cannot be decided in the suit. Accordingly, the IA has no merit and I pass the following order :-

- (i) IA is dismissed.
- (ii) No order as to costs.
- (iii) This order shall be digitally signed by the Private Secretary of the court.

(A. K. MENON, J.)

Sneha
A. Dixit

Digitally signed
by Sneha A. Dixit
Date:
2020.11.05
16:18:45 +0530