

Shephali

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS COMMERCIAL DIVISION
COMM ARBITRATION PETITION NO. 86 OF 2017**

Ajay Ghanshyam Goenka & Anr ...Petitioners
Versus
Kamla Landmarc Enterprises & Ors ...Respondents

**WITH
ARBITRATION PETITION NO. 145 OF 2017**

Shyamsunder Shubkaran Kedia & Anr ...Petitioners
Versus
Kamla Landmarc Enterprises & Ors ...Respondents

**WITH
ARBITRATION PETITION NO. 146 OF 2017**

Rajesh Babulal Tibrewal & Anr ...Petitioners
Versus
Kamla Landmarc Enterprises & Ors ...Respondents

**WITH
COMM ARBITRATION PETITION NO. 377 OF 2017**

Axis Electrical Components (I) Pvt Ltd ...Petitioners
Versus
Kamla Landmarc Enterprises & Ors ...Respondents

WITH

COMM CHAMBER SUMMONS (L) NO. 1168 OF 2019

Axis Electrical Components (I) Pvt Ltd ...Applicants
Versus
Kamla Landmarc Enterprises & Ors ...Respondents

Mr Girish Kedia, *for the Petitioner in CARBP/86/19, ARBP/145/19
& ARBP/146/19.*

Mr PC Dalal, *i/b Dalal & Co, for the Petitioner in CARBP/377/17.*

Mr Amogh Singh, *i/b DP Singh for the applicant in
CHSCDL/1168/19.*

Mr Sagar Patil, *for MCGM.*

Mr DN Kher, *Court Receiver with Mrs Rucha Ambekar, Section
Officer, present.*

CORAM: G.S. PATEL, J.
DATED: 25th February 2020

PC:-

1. So far as payment of the balance amount of Rs. 2 lakhs to Mr Shetgiri is concerned, Mr Kedia for the Petitioner states that his clients have paid Rs. 6 lakhs directly. The balance will be paid by them. The statement is noted and accepted.

COMM CHAMBER SUMMONS (L) NO. 1168 OF 2019:

2. There is a Chamber Summons (L) No. 1168 of 2019. All objections are to be removed within a week from today, failing which the dismissal of that Chamber Summons would be accompanied by an order of costs of Rs.5,000/- payable to the Maharashtra Legal Services Authority.

3. The Applicants are a tailor and his wife. They claim to be tenants with a decree in their favour in respect of a structure on the project site, CTS No. 255, 255/1 to 23 at Village Kondivita at Andheri Kurla Road, Andheri East, Mumbai 400 059. The Applicants claim to have a decree from the City Civil Court at Dindoshi and say that they have put that decree into execution. This does not give them any right to intervene in a Section 9 Petition between the flat purchasers and the developer. If the Receiver is appointed of the entire structure, obviously it will be for the Applicants in appropriate proceedings to which the developer and the landowners/landlords are joined to obtain an appropriate order with a suitable clarification regarding receivership of the premises or the part of the premises that the Applicants say are protected by this decree. There is no privity whatsoever between the Applicants and any of the other parties. It is true that in a Section 9 Petition, parties other than those who are parties to a contract can always be joined. But this is not an appropriate case where the Applicants can agitate their rights. Their remedies lie elsewhere and those remedies are entirely unaffected by any order in this Petition. All contentions of the Applicants are kept open. This is not an adjudication on merits of the Application.

4. The Chamber Summons is disposed of in these terms.

5. Mr Kedia states that there is a list of third party purchasers available with the Court Receiver. The Court Receiver will now start addressing communication to each of these parties calling upon them to deposit the balance consideration if any with the Court

Receiver. For those who claim to have been made full payment, the Court Receiver will call for details of how and when those payments were made and to whom, with supporting documents. No statements of payments in cash are to be acknowledged or accepted. If there is any litigation pending, this will be noted.

6. The Court Receiver is to place a report. In that report, each of these flat purchasers will be separately made a respondent.

7. Liberty to apply.

(G. S. PATEL, J)