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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
ARBITRATION PETITION NO. 67 OF 2020

Arihant Siddhi Coop Hsg Soc Ltd	...Petitioner
<i>Versus</i>	
Punjalal G Dave Realtors LLP	...Respondent

Mr S Murthy, *with Abhishek Patil, i/b Vandana P Santara, for the Petitioner.*

Mr Rashmin Khandekar, *with Swati Sawant, Gauri Joshi & Abhishek Bhosle, i/b SK Legal Associates, for the Respondent.*

CORAM: G.S. PATEL, J.
DATED: 13th January 2020

PC:-

1. The Petition challenges an order dated 20th August 2019 of the learned sole Arbitrator. In the arbitration, the present Petitioner was the respondent and the Respondent to this Petition was the claimant. The claimant (a developer) filed an application under Section 17 seeking substantive reliefs. That application resulted only in the following order:

“27. For the reasons stated above the present application is disposed off with following order:

Pending the arbitral proceedings, in the event the respondent proposes to sell any part of its

property on redevelopment or create any kind of rights in favour of a third party, it shall give advance notice of three weeks to the claimant before taking any such steps.

The costs of the application shall be the costs in cause.”

2. All that the order says is that should the society intend to sell any part of its property for redevelopment or create any third party rights, it must give three weeks’ notice to the developer.

3. But it is not this by which Mr Murthy for the claimant-Petitioner is so very aggrieved. He says that what hurts his clients are the observations in paragraph 25 (and elsewhere), to the effect that the claimant’s future case (upon such notice) has already been pre-decided to be a cause worthy of relief. Paragraph 25 reads:

“25. The above undisputed facts are sufficient to indicate, prima facie, that the claimant was not negligent or deliberate in not following the time-line prescribed under the agreement. The circumstances beyond the control of the claimant apparently prevented it. Therefore there is an arguable case made out on merits by the claimant.”

4. But this is at best, and correctly read, only a prima facie observation. It certainly does not mean that any future application under Section 17 that the developer makes after it receives the three weeks’ notice is bound to be granted, or that, irrespective of the merits of that application, the developer will be granted relief. There

can be no manner of doubt that should any fresh application be made by the developer, it is bound to be considered on its merits, all contentions being left open. No fresh application is by any means a foregone conclusion. These observations are, in any case, limited to *this particular* Section 17 application, on which, as we have seen, the only order the developer obtained was that it would get three weeks' notice. If the developer is not aggrieved by that result, I do not see why or how the society should feel so very agitated. There is no law that says that an application must be either granted fully or rejected fully. It is always open to a tribunal or a court to fashion an order that, in its view, meets the ends of justice. That is all that the learned Sole Arbitrator has done, nothing more. There is nothing at all in the impugned order to suggest that any application the developer files hereafter will be allowed for the asking.

5. The Petition is dismissed with these observations. There will be no order as to costs.

(G. S. PATEL, J)