

Shephali

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
ARBITRATION PETITION NO. 310 OF 2020**

Sagar S Jadhav	...Petitioner
<i>Versus</i>	
Greenfield Developers & Ors	...Respondents

Dr Uday Prakash Warunjikar, *for the Petitioner.*
Mr Rohaan Cama, *i/b Mr Bhavik Mehta and Mr Sahil Hirani, i/b*
Dhruve Liladhar & Co, for the Respondent.

CORAM: G.S. PATEL, J
(Through Video Conference)
DATED: 26th October 2020

PC:-

1. Heard through video conferencing.

2. Dr Warunjikar confirms that the amount of transit rent payable till September 2020 has been paid. Mr Cama clarifies that this payment is on a without prejudice. So noted and accepted.

3. Dr Warunjikar states that a correction is required in the title of the Petition and that it should be shown as Arbitration Petition No. 310 of 2020 and not Arbitration Petition No. 320 of 2020. The necessary amendment has been made in the soft copy. Leave to

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amend the hard copy without need of re-verification. Amendment in hard copy is to be carried out within four weeks from today.

4. So far as the first relief is concerned, i.e. payment of the monthly transit rent, apart from the amount paid (without prejudice) I note Mr Cama's statement on instructions that this will continue to be paid (again without prejudice) as per the terms of the permanent alternative accommodation agreement or the development agreement. This is of course without prejudice to all rights and contentions including Mr Cama's claim that the developer has the right to adjust its claim against these payments, and, further, that all such payments are also subject to any decision that the society may take in regard to the monthly lease rent.

5. The reason I have noted this is that Dr Warunjikar's client is a member of the society. The society itself is not before the Court. I do not see how the Respondent can invoke an arbitration right that affects the society or which emanates from an agreement between the society and the developer without the society being joined and heard. If the Petitioner is a member of the Society, and the Society has not invoked arbitration, different considerations may arise in regard to the Petitioner's entitlement to proceed. I express no opinion on those merits and leave them open for decision in an appropriate proceeding.

6. The second relief sought about the re-alignment of the Petitioner's flat is not one that I can grant because it will undoubtedly have an effect and impact on other flats and, therefore,

on the rights of other members of the society. It is open to the Petitioner to make that prayer in an appropriate proceeding to which the society is a party. It is not necessary to join every member of the society as long as the society itself as a legal entity is joined to the proceedings.

7. The present Arbitration Petition is disposed of in these terms. There will be no order as to costs.

8. This order will be digitally signed by the Private Secretary of this Court. All concerned will act on production of a digitally signed copy of this order.

(G. S. PATEL, J)