

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
ARBITRATION PETITION NO.236 OF 2021**

Sandeep Jayantilal Gala & Anr

....Petitioners

V/s.

Shastriji Developers LLP & Anr

...Respondents

Mr. Vivek Shukla a/w. Mr. Fayzan Khan i/b. V. Shukla and Associates for applicant.

Ms. Rama Subramanian for respondent.

CORAM : K.R. SHRIRAM, J.

DATED : 17th JULY 2021

PC. :

1 Ms subramanian states that she is instructed by one Bina Chawda, who was the partner with Ramniklal Chawda (deceased) in Shastriji Developers LLP, i.e., respondent no.1. Since late Ramniklal Chawda and Bina Chawda were the only partners of respondent no.1 and Ramniklal Chawda having died, the firm Shastriji Developers LLP is defunct. Ms Subramanian states that Bina Chawda is the widow of late Ramniklal Chawda. Ms Subramanian further states that pursuant to certain orders passed by MAHARERA, an association of flat purchasers has been formed who have taken over development of the project and have brought in a new developer and Bina Chawda being the only surviving partner of respondent no.1, has also given her no objection to the new developer taking over the project. Ms Subramanian, therefore, states that the question of creating any third party rights in Flat No.104 of the redevelopment building, Suchit Apartment, as referred to in the petition by respondent or Bina Chawda,

would not arise and Bina Chawda has no control or right over the redevelopment or in any flat contained there in. Statement accepted. I have to also note that this statement has been made by Ms Subramanian without prejudice to her clients rights and contentions including their allegations that agreement relied upon by petitioner is a forged document and further this court cannot look into the arbitration clause because agreement is neither stamped nor registered.

2 Mr. Shukla in view of the statement made by Ms Subramanian as noted above, states that the petition be disposed and he will file proper application before the adjudicating authority to prove the document and also get the document properly stamped and registered and thereafter, take out an application under section 11 of the Arbitration and Conciliation Act 1996.

3 In view of the provisions of section 33 of the Indian Stamp Act, this court has to impound the document. Mr. Shukla undertakes to submit original agreement to the Prothonotary and Senior Master, High Court, Bombay within one week from today. Prothonotary and Senior Master, thereafter, shall forward the document to the Superintendent of Stamps/Collector of Stamps, Mumbai for adjudication. Copy of the forwarding letter to be sent to the advocate for petitioner with copy to Ms Subramanian, who has undertaken to file vakalatnama within one week from today. The Superintendent of Stamps/Collector of Stamps, Mumbai is directed to adjudicate the quantum of stamp duty, registration charges, penalty and

interest,etc., payable within 6 weeks of receiving the documents from the Prothonotary and Senior Master, High Court, Bombay. Once adjudicated, the order be communicated to the Prothonotary and Senior Master, with copy to the advocate for petitioner and defendant. Petitioner to pay the amount of stamp duty including penalty etc., i.e, adjudicated amount, within four weeks of receiving a copy of the order. If plaintiff is aggrieved by any such adjudication order, plaintiff will be entitled to challenge the adjudication order in accordance with law.

4 Petition accordingly stands disposed.

5 All to act on authenticated copy of this order.

(K.R. SHRIRAM, J.)