

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

COMMERCIAL ARBITRATION PETITION NO.492 OF 2017

Ssakash Developers and Builders Private Limited ...Petitioner
vs.

Dahisar Apartments CHS Limited and Others ...Respondents

Mr. Dipesh Siroya, for the Petitioner.

Mr. Piyush Shah a/w. Mr. Dishang Shah and Mr. Karan G., for the
Respondent Nos. 2, 3, 4 and 5A.

CORAM : N. J. JAMADAR, J.

DATE : APRIL 13, 2022

P.C.:

1. Heard the learned counsel for the petitioner and the learned counsel for respondent Nos. 2, 3, 4 and 5A.

2. This petition under section 9 of the Arbitration and Conciliation Act, 1996 is instituted in the year 2017.

3. On 4th April, 2022, the learned counsel for the petitioner sought a short accommodation. When the matter was listed on 11th April, 2022, the learned counsel for the petitioner made a submission that negotiations for an amicable resolution of the dispute were underway. Thus, by way of final indulgence the matter stood over this day. The learned counsel for the petitioner seeks further time.

4. In contrast, the learned counsel for respondent No. 4 submits

that the petition has become infructuous as the development agreement executed by and between the petitioner and defendant No.1 Society has itself been terminated on 8th August, 2021. The learned counsel for respondent further submit that till date application under section 11 of the Act has not been filed. Thus, nothing survives in this petition.

5. The submission on behalf of respondent No. 4 carries some substance. The grievance of the petitioner in this petition was primarily against respondent Nos. 2 to 6, the dissenting members of the respondent No.1 society. On the date of the institution of the petition, it seems, there was no dispute between the petitioner and respondent No. 1- society. With the alleged termination of the development agreement the entire complexion of the dispute changes.

6. In the circumstances, there is no propriety in keeping this petition under section 9 of the Act, instituted in the year 2017, alive.

7. Hence, the petition stands dismissed.

(N. J. JAMADAR, J.)