

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

ARBITRATION PETITION NO.231 OF 2017

Jay Gopal Co-op. Housing Society Ltd.

.. Petitioner

Vs.

Maharaja Estates

.. Respondent

Mr. Nirav Marjadi, with Ms. Avani Rathod and Mr. Jill Rathod, i/by Solicis Lex,
for the Petitioner.

Mr. Deepak Shukla, i/by Vinod Mishra & Co., for the Respondent.

CORAM : A. K. MENON, J.

DATE : 21ST FEBRUARY, 2022.

P.C. :

1. This is a petition filed under Section 9 of the Arbitration and Conciliation Act, 1996. It seeks various interim and ad-interim reliefs. Vide an order dated 17th January 2017, this court has recorded an undertaking of the Director¹ of the respondent. Mr. Shukla states that, in fact, the Partner – Mr. Amarlal Lachhmandas Kalra of the respondent was present in court on that day. The undertaking is to the effect contained in paragraph 3 of that order. There is also a record of the petitioner having assured the respondent of full co-operation. The matter has remained pending since.

2. Thereafter, it appears that the petitioner-Society was keen on referring the disputes to arbitration. On 10th July 2019, the court recorded the

¹ *SIC – The word “Director” shall be read as “Partner”.

petitioner-Society's willingness to appoint an Arbitrator. The respondent-Partnership Firm however suggested that it would be appropriate that an application under Section 11 of the Arbitration and Conciliation Act, 1996 be filed for appointment of the tribunal since the respondent intended to contest the application. Till date, no Arbitration Application has been filed.

3. On behalf of the petitioner-Society, further time is sought today. Adjournment is declined. In view thereof, learned counsel for the petitioner submits that the undertaking already recorded by the court may continue pending arbitration and that he will file a Section 11 application within four weeks from today. It is made clear that if arbitration application is not filed, the order dated 17th January 2017 and undertaking cannot continue.

4. In the circumstances, I pass the following order:-

- (i) The undertaking contained in paragraph 3 of the order dated 17th January 2017, which is said to have been given by Mr. Amarlal Lachhmandas Kalra, the Partner of the respondent-Partnership Firm and duly identified by learned counsel Mr. Shukla, shall continue pending declaration of the award in the arbitration proceedings that the petitioner-Society intends to adopt.
- (ii) Statement that the Society will, if so advised, file an arbitration application, under Section 11 of the

Arbitration and Conciliation Act, 1996, within a period of four weeks from today is accepted.

- (iii) If no application is filed, as above, this order and the order dated 17th January 2017 shall stand vacated and this petition shall stand dismissed.
- (iv) Petition is disposed in the above terms.
- (v) No costs.

(A.K. MENON, J.)