

Sharayu Khot.

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

INTERIM APPLICATION (L) NO. 14517 OF 2022

WITH

INTERIM APPLICATION (L) NO. 12390 OF 2022

IN

SUIT NO. 239 OF 2022

Kapil Natwarlal Gor & Anr.

...Applicants/
Plaintiffs

Versus

M/s. Nutan Realty & Ors.

...Defendants

Mr. Cherag Bulsara, Mr. Rubin Vakil, Mr. Manish Doshi & Virti Shah i/
by Vimadalal & Co. for the Applicants/Plaintiffs.

Mr. Rashmin Khandekar a/w Mr. Mandar Joshi, Mr. Humera Syed,
Mr. Meet Gandhi, Mr. Chandralok Jha i/by Bishwajeet Mukherjee for
the Defendants.

CORAM : R.I. CHAGLA J

DATE : 11 October 2022

ORDER :

SHARAYU
PANDURANG
KHOT

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signed by
SHARAYU
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1. Parties have agreed to refer the disputes in Suit No. 239
of 2022 to arbitration under Clause 47 of the Development
Agreement dated 4th November 2018 read with Supplemental

Agreement dated 29th October 2020 and Permanent Alternate Accommodation Agreement dated 29th October 2020.

2. The present Suit has been filed for specific performance of the aforementioned agreements and for interim reliefs as prayed for in the Plaint and Interim Application (L) No. 12390 of 2020. In view of the aforementioned agreement, following consent order is passed :-

- (i) As per consent of the Plaintiffs and the Defendant No. 1, Mr. Malcolm Siganporia, Advocate of this Court is appointed as a Sole Arbitrator to adjudicate the disputes in the present Suit to be referred for the arbitration in accordance with law.
- (ii) The Plaintiffs and Defendant No. 1 further agree that all disputes raised by the Plaintiffs in the present Suit including those under the aforementioned Development Agreement and the Supplemental Agreement and Permanent Alternate Accommodation Agreement be referred to arbitration before the aforementioned sole

arbitrator.

- (iii) It is agreed that the Plaintiffs shall be the claimants and the Defendant No. 1 shall be Respondents in the said arbitration proceedings.
- (iv) The Complaint filed in the present Suit shall be treated as the Statement of Claim of the Plaintiffs and the Interim Application (L) No. 12390 of 2022 shall be treated as the Application of the Claimants under Section 17 of the Arbitration and Conciliation Act, 1996.
- (v) Parties to the present Suit which include Defendant No. 2 to whom service is effected, as borne out from the Affidavit of Service dated 26th September 2022 are parties to the arbitration agreement under Clause 47 of the Development Agreement dated 4th November 2018. The parties shall appear before the Sole Arbitrator on 17th October 2022 at a time to be fixed by the sole arbitrator.

- (vi) It is agreed that Interim Application (L) No. 12390 of 2022 which as aforementioned is treated as Interim Application under Section 17 of the Arbitration and Conciliation Act, 1996 shall be taken up by the appointed Sole Arbitrator for hearing on the date fixed i.e. 17th October 2022.
- (vii) The venue of arbitration shall be in Mumbai.
- (viii) Office to inform the Sole Arbitrator regarding his appointment.
- (ix) The Sole Arbitrator is requested to file the Disclosure Affidavit of Arbitration under Section 11(8)(i) of the Arbitration and Conciliation Act, 1996 within a period of three weeks from the date of receipt of the notice issued by the Registrar Judicial-I and provide copies to the parties.
- (x) The Sole Arbitrator shall extend efforts to expeditiously disposed of the arbitration proceedings with the co-

operation of the parties.

(xi) Parties to appear before the Sole Arbitrator on the date fixed.

(xii) Fees of the Sole Arbitrator will be payable in accordance with the Bombay High Court (O.S.) Rules, 2018.

(xiii) Interim Application (L) No. 14517 of 2022 is disposed of.

3. In view of this consent order, the present Suit and Interim Application (L) No. 12390 of 2022 stand disposed of.

4. There shall be no order as to costs.

5. Court fees are to be refunded in accordance with the Rules. For the purposes of Section 43 of the Maharashtra Court Fees Act and the proviso to that Section, today's date is the date of making a claim for repayment. The Prothonotary & Senior Master will issue a certificate for a refund of Court Fees computed according to the Rules. He will act on production of an authenticated copy of this

order without requiring a separate application.

6. Liberty to apply.
7. All the contentions of the parties shall be kept open.

[R.I. CHAGLA J.]