

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

COMMERCIAL ARBITRATION PETITION NO.20 OF 2022

Balaji Pardis Lifestyles LLP

..Petitioner

Vs.

Kamal Phool Co-op. Hsg. Soc. Ltd. & Ors.

..Respondents

Mr. Anoshak Daver i/b. Mr. Rajesh Gaikwad for Petitioner.

Mr. Abhijeet Mahadeokar for Respondent No.1.

Mr. Chacko Joseph for Respondent No.3.

CORAM : G.S. KULKARNI, J.

DATE : APRIL 08, 2022.

P.C.:

1. This Court in its order dated 16 March, 2022 in paragraph 5 had observed that respondent no.3 would be executing an independent consent terms with the petitioner and respondent no.1-society and accordingly, the proceedings qua against respondent no.3 were adjourned.

2. Learned counsel for the petitioner, learned counsel for respondent no.1-society and learned counsel for respondent no.3 have tendered Consent Terms as entered between these parties to the effect that respondent no.3 would be allotted free of cost one flat of 1 BHK admeasuring 350 sq. ft. RERA carpet area in the new building to be constructed on the terms and conditions as agreed between the parties

and as agreed in the consent terms.

3. As set out in the consent terms, respondent no.1-society is also agreeable as to what has been agreed *inter se* between the petitioner and respondent no.3 and accordingly has also become signatory to the consent terms. The consent terms are signed on behalf of respondent no.3 by his brother in pursuance of a Power of Attorney as executed by respondent no.3 in favour of his brother Mr. Shaji Mathew alias Shaji Pappy Mathew (PAN ABOPM6062F and Aadhar No.3416 6510 7217). On behalf of the society, the consent terms are signed by the Chairman and Secretary Mr. Punjabi and Treasurer Ms. Asha Punjabi who are stated to be present in the Court. Mr. Shaji Mathew alias Shaji Pappy Mathew, the Constituted Attorney of respondent no.3 is also present in the Court. Mr. Sanjay Devanani, Partner of the petitioner company has signed the consent terms. His signature is identified by his Advocate. There is no dispute on the signatures as made on the consent terms. The consent terms are taken on record and marked "X-1" for identification. As far as respondent no.3 is concerned, the petition would stand disposed of in terms of the consent terms. The undertaking, if any, shall stand accepted.

4. Further there are also separate consent terms between the petitioner and respondent no.1-society. What has been agreed in regard

to proportionate reduction in the area is as set out in paragraph 7 of the consent terms which reads thus:-

“7. The Respondent No.1 and all its 20 flat owners have agreed with the Petitioner that a total area of 525 sq. ft. RERA carpet will be reduced proportionately from their respective flat areas to be allotted under the Development Agreement dated 13th June, 2019 in view of area allotted to garage occupants under Consent Terms No.1 and Consent Terms No.2. Further, it has been agreed between the parties that any area to be allotted to garage occupants beyond aforesaid total area of 525 sq. ft. RERA carpet shall be reduced from the Developer's share under the Development Agreement.”

5. There is a General Body Resolution dated 03 April, 2022 to this effect as to what has been agreed between the society and the petitioner in terms of what has been agreed in the consent terms placed on record as entered between the petitioner and respondent no.1.

6. It is stated by Mr. Daver that out of 20 members, except one member, all the members were agreeable as to what has been agreed in these consent terms and in favour of such resolution, as recorded in the Minutes of the General Body Meeting held on 03 April, 2022. On behalf of the petitioner, these consent terms are signed by its Partner Mr. Sanjay Devanani and on behalf of respondent no.1-society, by its Chairman and Secretary Mr. Punjabi and Treasurer Ms. Asha Punjabi. The consent terms are also signed by the advocates for the parties. There is no dispute on the signatures as made on the consent terms. The Resolution dated 03 April, 2022 is also annexed to the consent terms. Consent

terms are taken on record and marked “**X-2**” for identification.

7. The petition is accordingly disposed of in terms of the consent terms which are taken on record by the present order and the earlier order dated 16 March, 2022. No costs.

[G.S. KULKARNI, J.]