

rajshree

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS COMMERCIAL DIVISION
COMMERCIAL ARBITRATION PETITION NO.178 OF 2022
ALONGWITH
COMMERCIAL ARBITRATION APPLICATION NO.57 OF 2020

Aditya Enterprises	]	..	Petitioner
vs.			
Nehru Nagar CHS Ltd. & Anr.	]	..	Respondents

Mr.Mahesh Menon a/w Pranav Chavan for Petitioner.

Mr.Onkar Gawade for Respondent No.1-Society.

Mr.Jaydeep Deo for Respondents.

CORAM : BHARATI DANGRE, J

DATE : 9th JANUARY, 2023.

P.C.

1] The present Petition is filed by the Petitioner, a Partnership Firm which had entered into Development Agreement with Respondent No.1 on 20.09.2010. A Deed of Assignment was executed between the Petitioner and Respondent No.2. Pursuant to this, a Memorandum of Understanding was also executed between the two, modifying the terms of the Development Agreement. Since the Respondents alleged to have committed breach of the Consent Terms and Memorandum of Understanding, disputes arose between the parties, which are sought to be referred to an Arbitrator through Section 11 Application and certain interim measures are sought through Section 9 Petition.

During the pendency of the proceedings, settlement is worked out between the Petitioner and Respondents and the settlement is recorded in form of Consent Terms, drawn between the parties on 08.01.2023, which are inked by the Petitioner and Respondents alongwith their respective Advocates. The Consent Terms are taken on record and marked as 'X' for identification.

2] The Consent Terms specifically record the understanding that has arrived between the parties and it is specifically agreed therein, that Respondent No.3 has undertaken to honour all the commitments of Respondent No.2 in the Deed of Assignment dated 28.05.2017 and would be bound by the same. Upon execution of the Consent Terms, Respondent No.3 has handed over to the Petitioner copies of the necessary permissions/approvals in respect of the proposed new building on the subject property and Respondent Nos.1 to 3 have agreed and undertaken to pay to the Petitioner sum of Rs.25 Lakhs as provided.

Apart from this, Respondent No.2 has also agreed to honour all the cheques issued on the respective dates and have committed that in case, they are dishonoured, Respondent Nos.2 and 3 shall be held liable to pay penalty of Rs.2000/- per day, till the entire amount of said cheques is realized by the Petitioner.

Respondent No.3 has agreed to complete the construction of new building and the Petitioner has undertaken to bear the expenses towards stamp duty, registration charges GST etc. The details of arrangement that is worked out between the parties is specifically contained in Clause No.ix to xiii.

3] The Consent Terms specifically record that the parties will have

no claim of whatsoever nature against each other, apart from what is stated in the other Paragraphs. Any dispute or difference between the parties out of said arrangement is agreed to be referred to a Sole Arbitrator, who shall be governed by the provisions of Arbitration and Conciliation Act. It is also agreed that the Deed of Assignment dated 01.05.2017 stand cancelled alongwith the Memorandum of Understanding dated 01.07.2017.

4] The Consent Terms are signed by the respective parties and Mahendra Narvekar – Chairman and Sunil Dalvi- Secretary of the Society, who are present before the Court. The designated Partner of Respondent No.2 and Director of Respondent No.3 is also present.

5] In the wake of above settlement, the Arbitration Petition, deserve to be disposed off in terms of Consent Terms.

Needless to state that all the signatories to the Consent Terms are bound by the statements contained therein and their Undertakings shall be honoured, else consequences stipulated in the Consent Terms shall fall upon them as contemplated in the Consent Terms.

6] The learned counsel for the Petitioner state that in the wake of Consent Terms, Arbitration Application filed under Section 11 of the Arbitration and Conciliation Act, shall be permitted to be withdrawn. Permission is granted.

Arbitration Application No.57/2020 is disposed off as withdrawn.

Arbitration Petition No.178/2022 is disposed of in the wake of Consent Terms.

[BHARATI DANGRE, J]