

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

**ARBITRATION APPLICATION NO. 167 OF 2023**

Shantaben Chimanlal Chheda ...Applicant

**Versus**

Sadakamal Co-operative Housing  
Society Limited & Ors. ...Respondents

**WITH**

**ARBITRATION PETITION (LODGING) NO. 20243 OF 2023**

Sadakamal Co-operative Housing  
Society Limited ...Petitioner

**Versus**

Haritara Constructions Company & Anr. ...Respondents

**WITH**

**ARBITRATION PETITION (LODGING) NO. 20245 OF 2023**

Sadakamal Co-operative Housing  
Society Limited ...Petitioner

**Versus**

Haritara Constructions Company & Anr. ...Respondents

**WITH**

**ARBITRATION PETITION NO. 315 OF 2023**

Shantaben Chimanlal Chheda ...Applicant

**Versus**

Sadakamal Co-operative Housing  
Society Limited & Ors. ...Respondents

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- Mr. Piyush M. Shah a/w Mr. Dishang Shah, Hetta Sagar, Mr. Priyesh Shah and Mr. Shivam D., for Petitioner.
- Adv. N. Shah and Adv. Tapan Agarwal, for Respondent No. 5 in

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ARBAP/167/2023 and ARBP/315/2023 and Respondent No. 1 in ARBPL/20243/2023 and ARBPL/20245/2023.

- Mr. Rishiraj Gohil a/w Sonam Chaubey, for Respondent No. 1 in ARBP/315/2023.

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**CORAM : MANISH PITALE, J.**

**DATE : 13<sup>th</sup> OCTOBER, 2023.**

**P. C. :**

1. In these two proceedings, two petitions filed under Section 9 of the Arbitration and Conciliation Act, 1996 and two applications filed under Section 11 thereof, have come up for consideration.

2. An individual member of a Housing Society and the Society itself have approached this Court in these four proceedings, wherein the contesting Respondent is the Developer.

3. In the petition and the application filed on behalf of individual member, this Court had issued certain ad-interim directions and thereafter, these proceedings have come up for consideration.

4. There is no dispute about the fact that in the present case there is an Arbitration clause and that the same was invoked on behalf of the Applicants before this Court.

5. The parties are agreeable to appointment of a sole Arbitrator for resolution of the disputes. It is submitted that the petitions filed under Section 9 of the said Act, may be converted into

applications under Section 17 thereof, to be placed before the learned Arbitrator for consideration.

6. The learned Counsel for the Applicant – Society impresses upon this Court the urgency in the matter, as the members of the Society are waiting for payment of transit rents for the past about 36 months.

7. In that light, it is prayed that even if the interim matters are ultimately to go before the learned Arbitrator under Section 17 of the said Act, this Court may consider issuing directions for expeditious consideration and disposal of the same.

8. In view of the above and the agreement between the parties, Advocate Sarosh Barucha, an Advocate practicing in this Court, is appointed as the sole Arbitrator for resolution of disputes between the parties. The details of the learned Arbitrator are as follows :

*Adv. Sarosh Bharucha*

*2<sup>nd</sup> Floor, Sava Chambers, P.M. Road, Fort.*

*Mob. No. 9821034806.*

9. The parties undertake to inform the learned Arbitrator immediately about the order passed today.

10. The learned Arbitrator is requested to communicate his

consent and Disclosure Statement as per Section 11(8) read with Section 12(1) of the said Act, to the Prothonotary and Senior Master of this Court, within four weeks from today.

11. The Fees of the learned Arbitrator shall be as per Schedule IV to the said Act.

12. All questions are kept open to be determined by the learned Arbitrator.

13. The petitions filed under Section 9 of the said Act i.e. Commercial Arbitration Application No. 167 of 2023 and Commercial Arbitration Petition 315 of 2023 are converted into applications under Section 17 of the said Act. The same shall be taken up for consideration by the learned Arbitrator. Considering the contentions raised on behalf of the Applicants, the learned Arbitrator is requested to take up the applications under Section 17 of the said Act, for consideration and disposal expeditiously and if possible, to dispose of the applications within four weeks of entering upon reference.

14. The applications as well as petitions are disposed of in above terms.

**(MANISH PITALE, J.)**