



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL WRIT PETITION NO. 17855 OF 2024

M/s. DEM Homes LLP

...Petitioner

vs.

Aarti Sagar Vanjare and Ors.

...Respondents

Adv. Anuj Desai a/w Adv. Neha Mhatre i/by Jay Vakil	Advocate for the Petitioner
Adv. Miss Drishti Saigal	Advocate for the Respondent Nos.1 to 3

CORAM : S. M. MODAK, J.

DATE : 11th DECEMBER 2024

P.C. :-

1. Mentioned out of turn.
2. Heard learned Advocate for the Petitioner-Defendant No. 2 and learned Advocate for the Plaintiffs-present Respondent Nos. 1 to 3.
3. Rule.
4. The limited relief sought in this petition is to pass an appropriate order in Notice of Motion No. 2799 of 2024 moved by the Petitioner in pending suit within certain period of time. It is prayer (b) of the petition. There is also prayer for setting aside the direction/order dated

09.10.2024 passed by the City Civil Court, Dindoshi, on page no. 453.

5. During pendency of the suit Notice of Motion No. 2799 of 2024 was moved by the present Petitioner on 07.08.2024. It is on page no. 445. There is a request made to refer the Parties to the suit to arbitration as per the provision of Section 8 of the Arbitration and Conciliation Act, 1996. It is on the basis of the Clause No. 34 in the Re-development agreement dated 05.09.2023.

6. The contention is when the suit had come up for hearing on 09.10.2024, the learned trial Judge has only referred about Chamber Summons No. 1033 of 2024 filed by the Plaintiff. There are prayer for amendment of the plaint and other prayers. The submission is their Notice of Motion has to be decided on the priority basis because if it is allowed, the suit will no longer continue.

7. This Court is not aware whether apart from Notice of Motion and Chamber Summon, whether there are other Notice of motion pending before the trial Court. But certainly it can be said that the prayer in the Notice of Motion goes to route of the suit.

8. In view of that the trial Court is required to decide Notice of Motion on the priority basis. There is no question of setting aside the

direction given in the roznama dated 09.10.2024. The trial Court to decide the Notice of Motion filed by the Petitioner i.e. Notice of Motion No. 2799 of 2024 on the priority basis.

9. Hence ,Writ Petition is disposed of. Rule made absolute.

[S. M. MODAK, J.]