

Khot.

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

COMMERCIAL ARBITRATION PETITION NO. 234 OF 2023

WITH

INTERIM APPLICATION (L) NO. 13478 OF 2023

Nirvaana Constructions LLP

...Petitioner

Versus

Sagar Kiran Co-operative Housing Society
Limited & Anr.

...Respondents

Mr. Mukesh Vashi, Senior Counsel a/w Ms. Aparna Devkar i/by M.P. Vashi and Associates for the Petitioner.

Mr. Karl Tamboly a/w Mr. Shakub Shaikh, Mr. Piyush Shah i/by Mr. Piyush Shah and Associates for the Respondents.

CORAM : R.I. CHAGLA J

DATE : 15 February 2024

ORDER :

1. Mr. Vashi, learned Senior Counsel for the Petitioner after having advanced arguments in the matter has sought the conversion of the Arbitration Petition filed under Section 9 to an Application under Section 17, which shall be addressed before the learned Arbitrator to be appointed by this Court.

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2. By consent of the learned Counsel for the parties, the following order is passed.:-

- (i) Mr. Shanay Shah, Advocate of this Court, is appointed as Sole Arbitrator under Clause 92 of both the Development Agreements dated 2nd June 2021.
- (ii) Commercial Arbitration Petition 234 of 2023 filed under Section 9 of the Arbitration and Conciliation Act, 1996 shall be treated as an Application under Section 17 before the appointed Arbitrator.
- (iii) Office to inform the Sole Arbitrator regarding his appointment.
- (iv) The appointed learned Arbitrator shall fix the schedule for the pleadings in the Section 17 Application and shall endeavour to dispose of Section 17 Application within a period of four weeks from being communicated his appointment as Sole Arbitrator in the matter.

- (v) The Arbitrator shall, within a period of 15 days before entering the arbitration reference forward a statement of disclosure as contemplated under Section 11(8) read with Section 12 of the Arbitration and Conciliation Act, 1996, to the Prothonotary & Senior Master of this Court to be placed on record.
- (vi) Parties to appear before the Sole Arbitrator on the date fixed.
- (vii) The Sole Arbitrator shall be entitled for the fees as per Bombay High Court (Fee Payable to Arbitrators) Rules, 2018 and the arbitral costs and fees of the Arbitrator shall be borne by the parties in equal portion and shall be subject to the final Award that may be passed by the Tribunal.
- (viii) All rights and contentions of the parties are kept open.
- (ix) Arbitration Petition is disposed of in the above terms.

- (x) There shall be no order as to costs.
- (xi) Interim Application does not survive and is accordingly, disposed of.

[R.I. CHAGLA J.]