

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

COMM. ARBITRATION APPLICATION (L) NO.21664 OF 2023

Rudra Super Structures LLP .. Applicant

Versus

Aditya D. Goyal .. Respondent

WITH

ARBITRATION PETITION NO.19 OF 2024

Rudra Super Structures LLP .. Applicant

Versus

Aditya D. Goyal & Ors. .. Respondents

WITH

COMM. ARBITRATION PETITION NO.554 OF 2021

Aditya Dharmendra Goyal & Anr. .. Petitioners

Versus

Rudra Super Structures LLP & Anr. .. Respondents

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Mr.K.K.Holambe Patil for the Applicant.

Mr.Vikramjeet Garewal with Mr.Umesh Tawari i/b
Ashwinikumar & Co. LLP for the Respondent Nos.1 and 2.

Mr.Ankur Pahade (through VC) with Anshuman R.A.Yadav for
the Respondent No.3.

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CORAM: BHARATI DANGRE, J.

DATED : 15th APRIL, 2024

P.C:-

1. The three proceedings are listed before me; the first being CARAP(L)/21664/23 is an application filed under Section 11, seeking reference of the disputes and differences that have arisen between the Applicant and the Respondents out of the Memorandum of Understanding dated 15/02/2020, in connection with the property described therein to a sole Arbitrator in light of Clause No.11, which clearly stipulate that the dispute shall be resolved by arbitration in accordance with the provisions of the Arbitration and Conciliation Act, 1996. It also contemplate that the Arbitrator shall be appointed by MAHAHOUSING.

The two other Petitions are also filed by the Applicant, seeking certain interim measures, pending the appointment of an Arbitrator, adjudication of dispute and enforcement of the Award under Section 9.

2. I have heard the learned counsel representing the respective parties and also perused the two documents involved i.e. Development Agreement dated 27/12/2019 and the Memorandum of Understanding dated 15/02/2020.

3. The Development Agreement is entered between Respondent Nos.1 and 2 and Rudra Super Structures LLP, as regards the development of the property in the management and ownership of Mr.Dharmendra Kumar Goyal.

The Agreement contains distinct recitals as regards the development of the property alongwith the consideration agreed upon, which is coupled with the covenant, to be abided by the owner as well as the Developer.

Pursuant thereto, a Memorandum of Understanding is executed on 15/02/2020, which now involves the Maharashtra Housing Development Corporation Limited (referred to as, 'MAHAHOUSING') and the vendors/owners Aditya D. Goyal and Lata Dharmendra Goyal and the development right holder Rudra Super Structures LLP. The Memorandum of Understanding is, therefore, a tripartite agreement, which has an arbitration clause in form of Clause No.11.

Since the Development Agreement also involves one Prashant Pandey, referred to as the 'Confirming Party', which expression shall unless it be repugnant to the context or meaning thereof be deemed to mean and include owner and their heirs, executors, administrators, attorneys, assigns and successors in title, it is imperative that before the reliefs in Section 11 Application as well as Section 9 Petitions are taken up for consideration, he shall be offered an opportunity of hearing.

4. The learned counsel for the Applicant, however, concede that he has not been impleaded as party Respondent and the liberty is sought to implead him as party respondent in all the three proceedings.

The Applicant is permitted to implead Mr. Prashant Pandey as party respondent in all the three proceedings. The

amendment shall be carried out within three days from today.

Re-verification is dispensed with.

5. Upon the amendment being carried out, issue notice to the newly added Respondent, making the same returnable on 07/05/2024.

The notice shall be served by registered post, pre-paid for acknowledgment or by fax, speed-post or Courier with acknowledgment and also through personal service, including service via electronic mail.

(SMT. BHARATI DANGRE, J.)