

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

ARBITRATION PETITION NO.275 OF 2024

Hallmark Luxury Developers LLP & Anr. ... Petitioners

V/s.

Hamara Ghar Co-operative Housing Society Limited ... Respondent

Mr. Karl Tamboly a/w Pooja Kane, Bharat Jain a/w Romin Sangai a/w Ishaan Choudary i/by ICULLLP for the Petitioners.

Mr. Prathamesh Kamat a/w Nishant Chothani, Amit H. i/by Maniar Srivastava Associates for the Respondent.

CORAM : ARIF S. DOCTOR, J.

DATE : 13TH AUGUST 2024

P.C. :

1. The present Petition is filed under Section 9 of the Arbitration & Conciliation Act, 1996 for the disputes and differences between the parties arises out of a Notice of Tender dated 18th September 2020 and a draft Development Agreement, in respect of which both parties has diversion views as to the effect thereof.

2. Today, there is no dispute that the tender notice contains an arbitration clause.

3. On taking instructions, Mr. Kamat, Learned Counsel appearing on behalf of the Respondent submits that the Respondent is ready and willing to submit their disputes and differences that have arisen between the parties to the arbitration.

4. Given this, both Learned Counsel request the Court to appoint an Arbitrator and that a retired Judge of the Bombay High Court be appointed as an Arbitrator to decide the disputes between the parties.

5. In view thereof, I deem it fit to appoint Justice R. D. Dhanuka (Former Chief Justice of High Court of Bombay) to act as the Sole Arbitrator to decide the disputes and differences that have arisen between the parties on the following terms :-

TERMS OF APPOINTMENT

(a) Appointment of Arbitrator: Justice R. D. Dhanuka (Former Chief Justice of High Court of Bombay), is hereby nominated to act as a Sole Arbitrator to decide the disputes and differences between the parties.

(b) Communication to Arbitrator of this order:

(i) A copy of this order will be communicated to the learned Sole Arbitrator by the Advocates for the

Petitioner within one week from the date this order is uploaded.

- (ii) The Advocates for the Petitioner will forward an ordinary copy of this order to the learned Sole Arbitrator at the following postal and email addresses:

Arbitrator **Justice R. D. Dhanuka (Former
Chief Justice of High Court of
Bombay)**

Address c/o Shri Chirag Shah,
Advocate, 11B Nirmal
Building, 11th Floor, Vidhan
Bhawan Marg, Nariman Point,
Mumbai – 400 021.

Contact 022-69040000

Email rddhanuka5@yahoo.com

- (c) **Disclosure:** The learned Sole Arbitrator is requested to forward, in hard copy or soft copy (or both), the necessary statement of disclosure under Section 11(8) read with Section 12(1) of the Arbitration Act to Advocates for the parties as soon as possible. The Advocates for the Petitioners will arrange to file the original statement in the Registry. If the statement is forwarded in soft

copy, a print out of the covering email is also to be filed in the registry.

- (d) **Appearance before the Arbitrator:** Parties will appear before the learned Sole Arbitrator on such date and at such place as the learned Sole Arbitrator nominates to obtain appropriate directions in regard to fixing a schedule for completing pleadings, etc.
- (e) **Contact/communication information of the parties:** Contact and communication particulars are to be provided by both sides to the learned Sole Arbitrator. The information is to include functional email addresses and mobile numbers.
- (f) **Section 16 application:** The respondent is at liberty to raise all questions of jurisdiction within the meaning of section 16 of the Arbitration Act. All contentions are left open.
- (g) **Interim Application/s:**
 - (i) Liberty to the parties to make an interim application or interim applications including (but not limited to) interim applications under Section 17 of the Arbitration & Conciliation Act, 1996 before the learned Sole Arbitrator. Any such application will be decided in such manner and within such time as the learned Sole Arbitrator deems fit.
 - (ii) The present Petition under Section 9 of the Arbitration Act will be treated, heard, and disposed of as an application under Section 17 of the Act. All affidavits filed in the Section 9 petition will be treated as affidavits filed in the Section 17 application. Liberty to

apply to the learned Sole Arbitrator for leave to file further affidavits.

(iii) The learned Sole Arbitrator is requested to dispose of all interim applications at the earliest.

(h) **Fees:** The arbitral tribunal's fees shall be governed by the Bombay High Court (Fee Payable to Arbitrators) Rules, 2018.

(i) **Sharing of costs and fees:** Parties agree that all arbitral costs and the fees of the arbitrator will be borne by the two sides in equal shares in the first instance.

(j) **Consent to an extension if thought necessary.** Parties immediately consent to a further extension of up to six months to complete the arbitration should the learned Sole Arbitrator find it necessary.

(k) **Venue and seat of arbitration:** Parties agree that the venue and seat of the arbitration will be in Mumbai.

6. I am informed that the pleadings are complete. The Tribunal is therefore requested to hear and dispose of Section 17 Application as expeditiously as possible.

7. The Petition is disposed of in these terms. No costs.

(ARIF S. DOCTOR, J.)