

Shephali

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

ARBITRATION PETITION NO. 353 OF 2024

Mahendra Ramniklal Shah

...Petitioner

Versus

Gangar Infrastructure

...Respondent

Ms Henna P. Shah, for the Petitioner.

CORAM: ARIF S. DOCTOR, J

DATED: 7th October 2024

PC:-

1. Ms Shah, Learned Advocate appearing on behalf of the Petitioner submits that the Respondent has been served. She seeks time to file Affidavit of Service. Let that Affidavit be filed in the Registry.

2. The present Petition arises out of a Permanent Alternate Accommodation Agreement ("**PAAA**") dated 16th September 2018 executed between the Respondent and the Petitioner. She submits that despite execution of his Agreement, the Respondent had not paid transit rent to the Petitioner. The Respondent handed over possession of the permanent flats which were to be allotted to the Petitioner. She submits that on the date on which the PAAA executed under which arbitration was invoked, the area of the permanent flats was not as contemplated in the Development Agreement. It is her grievance that

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the Respondent has not only failed to do so but has also failed to pay the transit rent to the Petitioner. It is thus the present Petition is filed.

3. Ms Shah then submits that though the Respondent has been served, the Respondent has chosen not to appear and it is thus that today interim reliefs are prayed for in terms of prayer clauses (a) and (c) (ii), which read as follows:

“(a) Pending the commencement and culmination of arbitral proceedings between the Petitioner and the Respondent, this Hon'ble Court be pleased to direct the Respondent to allow the Petitioner to carry out measurement of the Flat Nos. 701 and 702 situated at Avighna, 4th Rajawadi Road, Ghatkopar (East), Mumbai-400 077 and more particularly described in the Schedule at Exhibit A;

(c)(ii) Pending the commencement and culmination of arbitral proceedings between the Petitioner and the Respondent, this Hon'ble Court be pleased to pass an order of injunction restraining the Respondent and/or any person claiming through it, in any manner from dealing with, disposing of, and/or creating any third-party rights of whatsoever nature in respect of Flat Nos. 701 and 702 situated at Avighna, 4th Rajawadi Road, Ghatkopar (East), Mumbai – 400 077 and more particularly described in the Schedule at Exhibit A.”

4. Having heard and on perusing the record, I am satisfied that a case for grant of limited ad-interim has been made out. There is no dispute raised before me as to the Petitioner's entitlement to the said flats. Hence, issue notice to the Respondent, returnable on 21st October 2024.

5. In the meantime, there will be an interim order in terms of prayer clauses 9a) and (c)(ii), already reproduced above.

(ARIF S. DOCTOR, J)