

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
INTERIM APPLICATION NO. 3390 OF 2022
IN
COMMERCIAL ARBITRATION PETITION NO. 559 OF 2017**

Municipal Corporation of Greater Mumbai ...Applicant

In the matter between

Mulund Raviraj Co-operative Housing Society Ltd. ...Petitioner

Vs.

Rupji Construction & Anr. ...Respondents

**WITH
INTERIM APPLICATION NO. 180 OF 2021
WITH
COMMERCIAL ARBITRATION APPLICATION (L) NO. 6622 OF 2022
WITH
INTERIM APPLICATION (L) NO. 12903 OF 2021
WITH
INTERIM APPLICATION NO.1912 OF 2024
WITH
CHAMBER SUMMONS NO. 32 OF 2020
WITH
COMMERCIAL ARBITRATION PETITION NO. 559 OF 2017
WITH
CHAMBER SUMMONS NO.217 OF 2018
WITH
NOTICE OF MOTION NO. 688 OF 2018
WITH
CHAMBER SUMMONS NO.763 OF 2019
WITH
CHAMBER SUMMONS NO.234 OF 2019
WITH**

CHAMBER SUMMONS NO.45 OF 2019
WITH
NOTICE OF MOTION NO. 350 OF 2019
WITH
INTERIM APPLICATION (L) NO. 24824 OF 2024
WITH
CHAMBER SUMMONS NO.1080 OF 2019
WITH
CHAMBER SUMMONS NO.40 OF 2020
WITH
INTERIM APPLICATION (L) NO. 50 OF 2024
WITH
INTERIM APPLICATION (L) NO. 2136 OF 2024
WITH
INTERIM APPLICATION NO.180 OF 2021
WITH
INTERIM APPLICATION NO.410 OF 2021
WITH
INTERIM APPLICATION (L) NO. 23486 OF 2022
WITH
INTERIM APPLICATION (L) NO. 19656 OF 2024
WITH
INTERIM APPLICATION NO.2365 OF 2024
WITH
INTERIM APPLICATION (L) NO. 1929 OF 2024
WITH
INTERIM APPLICATION (L) NO. 1938 OF 2024
WITH
INTERIM APPLICATION NO.1912 OF 2024
WITH
INTERIM APPLICATION (L) NO. 12903 OF 2021
WITH
CHAMBER SUMMONS NO.32 OF 2020
WITH

INTERIM APPLICATION NO.3390 OF 2022

Adv. Vikhil Dhoka a/w Manas Bahuguna i/by GM Legal for the Petitioner in CARBP/559/2017.

Adv. Ankita Singhania a/w Priya M. and M. R. Sherekar i/by Ashay Kapadia for the Applicant in IA/1912/2024.

Adv. Abhinav Bhatkar for the Applicant in IAL/50/2024.

Adv. Vijay Chauhan i/by P. Maulik for the Applicant in IAL/24824/2024.

Adv. Amit Tungare (through VC) a/w Jill Rodricks for the Applicant in IAL/19656/2024.

Adv. Sunita Rawat i/by O. A. Das for Intervenor in IA/180/2021.

Adv. Rahul Chauhan for Respondent No.3.

Adv. P. G. Lad a/w Sayali Apte, Pooja Yadav and G. O. Giri i/by Sunil Sonawane for BMC in IA/3390/2022.

Mr. Shrikant Godbole, Ex Secretary, Mulund Raviraj CHSL is present.

CORAM : ARIF S. DOCTOR, J.

DATE : 12TH AUGUST, 2024

P.C.-

1. This matter was placed on board pursuant to an application made by the Court Commissioner, who pointed out that no steps have been taken in this matter for an inordinately long time.

2. Today, it was pointed out that this Court had on 9th December, 2021 noted as follows:-

“PC:

1] As a last chance, stand over to 13.1.2022. On the adjourned date of hearing, the parties would be heard on this petition filed under section 9 of Arbitration and Conciliation Act, 1996 (for short “the Act”), which is of 2017 and has remained pending.

2] It is informed by learned counsel for the petitioner that so far there is no invocation of the arbitral proceedings much less any application filed under section 11 of the said Act. In these circumstances, whether the present proceedings could still be entertained would be required to be examined, more particularly considering the clear provisions of Section 9 of the Act.

3] There is an Interim Application filed by third party. Let a copy of the same be served a copy on the other side. The parties would also be heard on such application on the adjourned date of hearing.”

3. Learned Counsel who appear in some of the captioned Interim Applications have today pointed out that despite the aforesaid order, no steps have been taken to initiate arbitration and that an Application under Section 11 of the Arbitration and Conciliation Act, 1996 has been filed only on 3rd March, 2022 which is well after the period of 90 days as prescribed under Section 9 of the Arbitration and Conciliation Act, 1996. It is thus submitted that all orders passed in Section 9 Petition would *ipso facto* lapse.

4. I am informed that pursuant to certain orders passed under Section 9 Petition, an amount of approximately 7 Crores rupees is lying deposited with the Prothonotary and Senior Master of this Court. The captioned Interim Applications (most of them) are in the nature of garnishee proceedings by the Applicants, who claim to be entitled to the said money or a part thereof.

5. Learned Counsel for the Petitioner disputes that no steps have been taken for appointment of an Arbitrator. He seeks leave to file an affidavit to point out the steps taken by the Petitioner. Let this affidavit to be filed on or before 19th August, 2024.

6 Given the fact that the captioned Commercial Arbitration Petition is of the year 2017, I deem it fit to list the same for hearing on the next date. Replies to the Interim Applications, if any, to be filed within a period of one week from today.

7. Stand over to 2nd September, 2024 (HOB) along with all the captioned Interim Applications.

8. One Mr. Shrikant Godbole sought to address the Court as a member of the Petitioner-Society. He does not have a leave to appear in person as is necessary from the committee of this Court. If he chooses to appear on the next occasion in person, he shall obtain such leave to appear. However, it is made

clear that if he does not maintain the decorum of this Court as he did today, he shall be removed from this Court.

9. Ms. Rawat, Learned Counsel appearing o behalf of the Applicant in Interim Application No.180 of 2021 submits that the claim of her client has been settled. Hence, she seeks leave to withdraw the said Interim Application No.180 of 2021.

10. The Interim Application No.180 of 2021 is thus dismissed as withdrawn.

(ARIF S. DOCTOR, J.)