

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL REVISION APPLICATION NO.430 OF 2024**

M/s. Pyramid Land Developers	...	Applicant
versus		
Shivnarayan Acchaibar Singh and Anr.	...	Respondents

Mr. Aliabbas Delhiwala with Mr. Pratik Shah i/by LR and Associates, for Applicant.
Mr. Anuj Narula with Mr. Sushil Chaurasia, Mr. Mohit Jagiasi i/by SKC Legal, for Respondents.

CORAM: N.J.JAMADAR, J.

DATE : 21 JANUARY 2025

P.C.

1. Heard the learned Counsel for the parties.
2. The challenge in this application is to an order dated 19 July 2024 passed by the learned Judge, City Civil Court, whereby the Notice of Motion No.2034 of 2023 taken out by the Defendants purportedly for rejection of the plaint under Order VIII Rule 11 (b) of the Code of Civil Procedure, 1908, came to be rejected.
3. Mr. Delhiwala, the learned Counsel for the Applicant / Defendant submitted that, in fact, the Defendant had prayed for a reference of the dispute between the parties to arbitration by invoking the provisions contained in Section 8 of the Arbitration and Conciliation Act, 1996, as there is an arbitration clause in the Articles of Agreement dated 12 July 2007 executed between the parties.

4. Learned Counsel for the Applicant also invited attention of the Court to a letter dated 27 June 2022, addressed on behalf of the Plaintiffs, purportedly invoking the arbitration. In these circumstances, the learned Judge, City Civil Court could not have rejected the prayer to refer the parties to arbitration.

5. Mr. Narula, the learned Counsel for the Respondents/Plaintiffs countered the submissions on behalf of the Applicant. It was urged that the Defendant had not sought reference of the parties to arbitration at all. Taking the Court through the prayers in the Notice of Motion and the affidavit in support thereof, Mr. Narula submitted that the Defendant had prayed for rejection of the plaint on the ground of purported bar of Section 8 of the Arbitration and Conciliation Act, 1996, which is misconceived.

6. I have perused the impugned order. So far as the prayer for rejection of the plaint, the Court does not find any fault with the impugned order.

7. The issue that really arises for consideration is, whether there is indeed an arbitration clause which covers the dispute in question in the instant suit. That question is required to be adjudicated in the light of the fact that the Plaintiffs have abandoned a part of the claim, especially prayer clauses (a) and (b) of the plaint. Whether the arbitration clause contained in the Articles of Agreement dated 12 July 2007 covers the subject matter of the suit, requires adjudication.

8. In these circumstances, without interfering with the impugned order, it

would be expedient to grant liberty to the Applicant/Defendant to file an application under Section 8 of the Arbitration and Conciliation Act, 1996. In the event, such an application is filed, the learned Judge, City Civil Court, shall decide the same on its own merits and in accordance with law, without being influenced by any of the observations made by this Court.

9. The Civil Revision Application stands disposed of.

(N.J.JAMADAR, J.)

SWAROOP
SHARAD
PHADKE

Digitally signed
by SWAROOP
SHARAD
PHADKE
Date: 2025.01.23
10:15:25 +0530