

Ajay

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

APPEAL FROM ORDER NO.541 OF 2025

M/s. Everhome Properties Pvt. Ltd.

Appellant
.. (Original Plaintiff)

Versus

M/s. Aditya Developers and Ors.

Respondents
.. (Original Defendants)

.....

- Mr. Praveen Samdani, Senior Advocate a/w. Mr. Karan Bhiday i/by Mr. Aditya P. Shirke, Advocates for Appellant.
- Mr. Gaurav Joshi, Senior Advocate a/w. Mr. Mayur Khandeparkar, Ms. Tanisha Choudhary and Mr. Aseem Naphade i/by Mr, Y.N. Adhia, Advocates for Respondents.

.....

CORAM : MILIND N. JADHAV, J.
RESERVED ON : NOVEMBER 13, 2025.
PRONOUNCED ON : NOVEMBER 17, 2025.

JUDGEMENT:

1. This Appeal from Order was mentioned before me on 15.10.2025, on that date order dated 26.09.2025 passed by the Supreme Court was brought to my notice and it was urged that within 30 days from the date of pointing out that order, the Appeal from Order should be heard and decided by this Court preferably as stated in the Supreme Court Order. On 15.10.2025 by consent of both parties (their Advocates), the Appeal from Order was listed for directions on 03.11.2025 since the Court was closed on account of Diwali Vacation from 18.10.2025 to 02.11.2025. On 03.11.2025, the Appeal from Order was fixed for hearing on 06.11.2025. It was heard on 06.11.2025, 12.11.2025 and 13.11.2025. On all 3 days of hearing of

Appeal from Order, it was argued and adjourned at the request of the learned Senior Advocates appearing for parties to accommodate them. Hearing was finally concluded on 13.11.2025. Both the parties were heard at length and Appeal from Order was closed for passing of order / judgement and posted on 17.11.2025 i.e. today. This judgement is pronounced in open Court.

2. Heard Mr. Samdani, learned Senior Advocate for Appellant and Mr. Joshi, learned Senior Advocate for Respondents.

3. Appeal from Order impugns common order dated 03.06.2025 passed by 4th Joint Civil Judge (Senior Division), Vasai whereby Plaintiff's Application below 'Exhibit 5' in Special Civil Suit No.9 of 2025 came to be rejected and Defendant's Application below 'Exhibit 22E' seeking permission to deposit Rs.11 crores in the Court came to be allowed. Parties are referred to as Plaintiff (Appellant) and Defendants (Respondents) for convenience. Respondent Nos.2 to 7 are Business Partners of Respondent No.1 – Company and shall be referred to as Defendants together.

4. Briefly stated, Defendants are admittedly owners of land admeasuring approximately 80,104.35 square meters at Village Manickpur, Taluka – Vasai, District – Palghar (for short '**suit property**'). Plaintiff is a Company carrying out construction and development business. On 12.04.2023 Plaintiff and Defendants entered into a Term

Sheet Agreement for proposed joint development of the suit property. Under the Term Sheet, Plaintiff agreed to pay interest-free refundable security deposit of Rs.65 crores in four tranches subject to compliances with conditions precedent as stated therein.

5. On 13.04.2025, Plaintiff paid a sum of Rs.11 crores towards first tranche as stipulated in Clause 5 of the Term Sheet. According to Plaintiff the said amount was utilized by Defendants towards settlement of encroachments, fencing of the suit property, and commencement of piling work for the rehabilitation building for hutment dwellers which is strongly refuted by Defendants. According to Defendants this amount was merely part of the security deposit and not consideration. According to Defendants the potential of the suit property is worth more than Rs.1000 crores as on date.

6. It is Plaintiff's case that despite receipt and utilization of Rs.11 crores Defendants failed to apprise Plaintiff of further progress or to comply with obligations under Clause 6(b) of the Term Sheet which were required to be fulfilled by them within twelve months i.e., on or before 11.04.2024.

7. It is Plaintiff's case that despite being ready and willing to perform its part and willing to pay the second tranche of Rs.15 crores upon compliances, it repeatedly called upon Defendants through communications dated 14.08.2024 and 26.08.2024, however, Defendants failed to respond or act upon the same.

8. Thereafter Plaintiff by email dated 22.10.2024 forwarded draft Joint Development Agreement (for short '**JDA**') and called upon Defendants to review the same so that parties could meet and close the terms. Defendants by reply dated 04.11.2024 stated that the Term Sheet had come to an end and sought bank account details of Plaintiff to refund the interest-free refundable security deposit.

9. Plaintiff vide email dated 5.11.2024 refuted Defendants' stand and stated that Term Sheet was valid, subsisting and binding between parties. However by email dated 12.11.2024, Defendants reiterated their stand.

10. Plaintiff by communications dated 22.11.2024 and 06.01.2025 called upon Defendants to comply with their contractual obligations. However upon site visit on 04.01.2025 Plaintiff's representative observed construction and fencing activities on the suit property. Hence, being aggrieved and apprehending creation of third party rights, Plaintiff filed Special Civil Suit No.9 of 2025 on 08.01.2025 seeking specific performance of the Term Sheet dated 12.04.2023 and injunction against the Defendants alongwith alternate relief of refund of Rs.11 crores with interest.

11. Plaintiff filed Application below Exhibit 5 seeking temporary injunction restraining Defendants from creating third-party rights in the suit property. Defendants filed counter-application below Exhibit

22E seeking permission to deposit Rs.11 crores in Court.

12. By common order dated 03.06.2025, the 4th Joint Civil Judge (Senior Division), Vasai rejected Plaintiff's Application filed below Exhibit 5 refusing injunction to Plaintiff and allowed Defendants' Application filed below Exhibit 22E permitting deposit of Rs.11 crores in Court. Being aggrieved by the said order Plaintiff filed present Appeal from Order.

13. Mr. Samdani, learned Senior Advocate for Appellant – Plaintiff would submit that the subject matter of dispute is Agreement titled as “Term Sheet” dated 12.04.2023 appended at page No.48 of the Appeal from Order. He would submit that mere heading or title of a document cannot determine its legal character and its true nature can only be gathered from its contents. He would submit that the Term Sheet when read as a whole clearly evidences a binding and concluded contract between parties which is enforceable and it is not a mere understanding or an agreement to agree.

13.1. He would submit that the Term Sheet is not a simplicitor Joint Development Agreement but is in substance an Agreement for Joint Development in the nature of a quasi-partnership. He would submit that under the Term Sheet, Defendants have brought in the suit property as their contribution to the quasi-partnership while Plaintiff has undertaken to contribute funds for construction, to undertake the

development and thereafter market and sell the constructed area. He would submit that both parties agreed to share the gross revenue in a fixed proportion as recorded in the Term Sheet. He would submit that the Term Sheet itself expressly provided that it was enforceable as stipulated in Clause 11. He would submit that all material terms governing the quasi-partnership have been succinctly incorporated therein and remaining incidental terms naturally flow from it. Being a commercial document entered into between two business entities, he would submit that the Term Sheet ought to have been interpreted to give business efficacy to the transaction to reflect the intention of the parties.

13.2. He would submit that contention of Defendants that the Term Sheet merely contemplated execution of “Transaction Documents” and was not itself binding is misconceived and unsustainable. He would submit that the Term Sheet does not clearly stipulate that the execution of the Transaction Documents is a condition precedent to the bargain nor does it provide that the parties would not be bound unless such documents were executed. On the contrary, the Term Sheet recorded that the terms were final, concluded and enforceable.

13.3. He would submit that whether execution of the Transaction Documents constituted a condition of the bargain was a matter of

intention of parties. He would submit that in absence of any such stipulation in writing termination of the Term Sheet is to be gathered from the conduct of the parties which in the present case showed that both parties acted in furtherance thereof and in performance of the Term Sheet.

13.4. He would draw my attention to the conduct of the parties post the Long Stop Date i.e 11.04.2024 and argue that the Term Sheet has been acted upon. He would submit that Defendants accepted Rs.11 Crores as Interest-Free Refundable Security Deposit on 13.04.2023 in terms of the Term Sheet, thereafter Plaintiff conducted due diligence of the title of Defendants and issued public notices inviting objections. He would submit that between April 2023 and March 2024 parties held several meetings to resolve requisitions and objections. He would submit that meetings were also held with the Environmental Consultant and both sides agreed to proceed with necessary steps in accordance with the Term Sheet. Hence he would submit that this conduct of parties clearly showed that the Term Sheet was implemented in letter and spirit.

13.5. He would submit that the Validity Clause 12 in the Term Sheet merely provided a “Long Stop Date” of 11.04.2024 and stipulated that it provided that it would come to an end only upon refund of the deposit within two (2) months thereof. He would

emphasize that since no refund was made by Defendants as stipulated within 2 months as per Clause 12, the Term Sheet therefore continued to remain valid and subsisting thereafter. He would submit that parties' conduct beyond the Long Stop Date clearly established that the said clause was never treated as determinative of the contract's validity. He would rely upon the subsequent correspondence exchanged between August 2024 and January 2025 including Plaintiff's email dated 22.10.2024 forwarding a draft JDA and multiple communications in the month of November and December 2024 which demonstrated acknowledgment of the binding nature of the Term Sheet even beyond the Long Stop Date. He would rely upon Clause 11 of the Term Sheet which stated that it shall be enforceable in support of Plaintiff's case for injunction.

13.6. In support of his above submissions he has referred to and relied upon the decisions of the Supreme Court and this Court in the case of *Kollipara Sriramulu (dead) by his Legal Representative (in both the Appeals) Vs. T. Aswatha Narayana (dead) by his Legal Representative and Ors.*¹ and *Nathani Supariwala Realty Pvt. Ltd. Vs. Dawoodbhoy Fazalbhoy (Muslim) Educational Trust & Ors.*² In the case of *Kollipara Sriramulu (dead) by his Legal Representative (in both the Appeals) (supra)*, Mr. Samdani has placed reliance on paragraph Nos.3 and 4 of the said decision to contend that the Term Sheet be

¹ (1968) 3 SCR 387

² Notice of Motion (L) No.490 of 2014 in Suit (L) No.212 of 2014, passed on 04.03.2015.

read as a whole and it so done in the present case it is a concluded contract between parties and essentially binding and enforceable. He would argue that virtually all obligations of parties thereto are reiterated in the Term Sheet and hence intention of parties to have a binding agreement / contract is clearly crystallised. Paragraph Nos.3 and 4 of the said decision read thus:-

*"3. We proceed to consider the next question raised in these appeals, namely, whether the oral agreement was ineffective because the parties contemplated the execution of a formal document or because the mode of payment of the purchase money was not actually agreed upon. It was submitted on behalf of the appellant that there was no contract because the sale was conditional upon a regular agreement being executed and no such agreement was executed. We do not accept this argument as correct. It is well established that a mere reference to a future formal contract will not prevent a binding bargain between the parties. The fact that the parties refer to the preparation of an agreement by which the terms agreed upon are to be put in a more formal shape does not prevent the existence of a binding contract. There are, however, cases where the reference to a future contract is made in such terms as to show that the parties did not intend to be bound until a formal contract is signed. The question depends upon the intention of the parties and the special circumstances of each particular case. As observed by the Lord Chancellor (Lord Cranworth) in *Ridgway v. Wharton* [6 HLC 238, 63], the fact of a subsequent agreement being prepared may be evidence that the previous negotiations did not amount to a concluded agreement, but the mere fact that persons wish to have a formal agreement drawn up does not establish the proposition that they cannot be bound by a previous agreement. In *Von Hatzfeldt-Wildenburg v. Alexander* [(1912) 1 CH 284, 288] it was stated by Parker, J. as follows:*

"It appears to be well settled by the authorities that if the documents or letters relied on as constituting a contract contemplate the execution of a further contract between the parties, it is a question of construction whether the execution of the further contract is a condition or term of the bargain or whether it is a mere expression of the desire of the parties as to the manner in which the transaction already agreed to will in fact go through. In the former case there is no enforceable contract either because the condition is unfulfilled or because the law does not recognize a contract to enter into a contract. In the latter case there is a binding contract and the reference to the more formal document may be ignored."

4. *In other words, there may be a case where the signing of a further formal agreement is made a condition or term of the bargain, and if the formal agreement is not approved and signed there is no concluded contract. In Rossiter v. Miller [3 AC 1124] Lord Cairns said:*

“If you find not an unqualified acceptance subject to the condition that an agreement is to be prepared and agreed upon between the parties, and until that condition is fulfilled no contract is to arise then you cannot find a concluded contract.”

In Currimbhoy and Company Ltd. v. Creet [60 IA 297] the Judicial Committee expressed the view that the principle of the English law which is summarised in the judgment of Parker, J. In Von Hatzfeldt-Wildenburg v. Alexander [(1912) 1 CH 284, 288] was applicable in India. The question in the present appeals is whether the execution of a formal agreement was intended to be a condition of the bargain dated July 6, 1952 or whether it was a mere expression of the desire of the parties for a formal agreement which can be ignored. The evidence adduced on behalf of Respondent 1 does not show that the drawing up of a written agreement was a pre-requisite to the coming into effect of the oral agreement. It is therefore not possible to accept the contention of the appellant that the oral agreement was ineffective in law because there is no execution of any formal written document. As regards the other point, it is true that there is no specific agreement with regard to the mode of payment but this does not necessarily make the agreement ineffective. The mere omission to settle the mode of payment does not affect the completeness of the contract because the vital terms of the contract like the price and area of the land and the time for completion of the sale were all fixed. We accordingly hold that Mr Gokhale is unable to make good his argument on this aspect of the case.”

13.7. He would submit that Plaintiff consistently asserted its readiness and willingness to perform the terms while Defendants never refunded the security deposit of Rs.11 crores even after the Long Stop Date i.e. 11.04.2024 within two months thereby confirming that the Term Sheet was never treated as terminated by both parties. He would therefore submit that the Trial Court clearly erred in holding the Term Sheet to be a mere understanding and a non-binding arrangement thereby overlooking the fact that it satisfied all ingredients of a concluded and enforceable contract. Hence, he would urge the Court

to quash and set aside the impugned order and allow the preset Appeal from order in the interest of justice.

14. Mr. Joshi, learned Senior Advocate for Respondents - Defendants has drawn my attention to the Affidavit-in-reply to the Appeal from Order dated 06.10.2025 filed by Binal Sevantilal Koradia – Partner of Respondent No.1 appended at page No.52 of the Appeal from Order and would submit that Defendants are the owners, *inter alia*, of the suit property. He would submit that on 12.04.2023, Plaintiff and Defendants executed Term Sheet for proposed joint development of the suit property. He would submit that the Term Sheet was merely a record of commercial understanding and was in the nature of an agreement to enter into a definitive contract rather Joint Development Agreement at a later date upon satisfaction of certain conditions precedent and hence it was not stamped or registered.

14.1. He would submit that under the Term Sheet, Plaintiff deposited a sum of Rs. 11 crores as part of interest free refundable deposit being the first tranche payment out of Rs.65 crores as contemplated under Clause 5 of the Term Sheet. He would submit that the Term Sheet specifically contemplated a Long Stop Date of 11.04.2024 under its Validity Clause 12 after which the arrangement would automatically lapse and the Term Sheet would stand terminated

if the conditions precedent stated therein were not fulfilled as agreed upon by the parties on or before the Long Stop Date.

14.2. He would at the threshold submit that Validity Clause 12 in the Term Sheet begins with a non-obstante clause, notwithstanding anything contained in the Term Sheet which is a condition precedent for any of the clauses in the Term Sheet to apply including Clause 11 on enforceability. He would submit that Clause 12 of the Term Sheet provides that if the contingencies or conditions precedent are not complied with for whatever reason on or before the Long Stop Date, Plaintiff would only be entitled to refund of the interest free deposit within two months from the expiry of the Long Stop Date i.e. 11.04.2024 specifically without any interest. He would submit that Clause 12 categorically stipulated that upon such refund neither party would have any claim of any nature whatsoever against the other. He would submit that the only right surviving to Plaintiff after the Long Stop Date i.e. 11.04.2024 is a contractual right to seek refund of Rs.11 crores in the manner prescribed in Clause 12 and it has no right to claim specific performance of any development rights as per the Term Sheet in the suit property or seek injunction.

14.3. He would submit that parties are *ad idem* that none of the contingencies or conditions precedent mentioned in Clause 12 stood complied with except for issuance of public notice calling for objections

before the Long Stop Date. He would point out that Clause 12(II)(a) to (d) required Plaintiff to complete due diligence or accept or reject title of Defendants or reject title of Defendants or execute transaction documents on or before the Long Stop Date i.e. 11.04.2024. He would submit that it is clear that Plaintiff did not comply with any of these acts and has infact so admitted in the Plaint at paragraph Nos.15 to 17 at page Nos.162 and 163 that due diligence was not concluded before the Long Stop Date. Once that was the admitted position then consequences were to follow as per the Term Sheet.

14.4. He would submit that Plaintiff's contention regarding non-clearance of objections is misconceived. He would submit that between May and August 2023 objections were raised by Mr. Hrishchandra Patil through his Advocate B. N. Gujar, Radon Developers Pvt. Ltd., and M/s. Dange Associates through Advocate Avinash D. Vidwans all of which were duly addressed and responded to by Advocates for Plaintiff thereby calling upon them (objectors) to produce documents evidencing their rights failing which the objections would be not be considered.

14.5. He would submit that during this period several meetings took place wherein Defendants provided detailed explanations and clarifications which were accepted by Plaintiff who did not raise any grievance thereafter. He would submit that the correspondence

exchanged between July and December 2023 clearly records that all queries were resolved and relevant documents were shared with Advocates for Plaintiff. He would submit that thereafter there was a hiatus and no correspondence on record from December 2023 until the Long Stop Date i.e. 11.04.2024 and even much thereafter.

14.6. He would submit that immediately upon expiry of the Long Stop Date Defendants offered to refund the sum of Rs.11 crores but Plaintiff refused to accept the same and instead sought to impose new and extraneous conditions contrary to the Term Sheet. This was averred to by Defendants in their reply to the Exhibit 5 Application and the same was not denied by Plaintiff. He would submit that Plaintiff's plea in paragraph Nos.15 and 16 of the Plaint that Defendants failed to "clear" objections amounts to an implied rejection of Defendant's title despite Defendants having acted *bonafide*, addressed all objections, and offered refund in accordance with the Term Sheet.

14.7. He would submit that by emails dated 14.08.2024, 16.08.2024 and 26.08.2024 much after the Long Stop Date, Plaintiff requested Defendants for an update. By reply dated 26.08.2024 Defendants responded and asked Plaintiff to get latest update from Deepakbhai (introducer).

14.8. He would submit that after expiry of the Long Stop Date Plaintiff's conduct further demonstrates that Term Sheet had lapsed.

He would point out that five months after the Long Stop Date by email dated 22.10.2024, Plaintiff sent a draft Joint Development Agreement to Defendants seeking to introduce new conditions including direction to pay approximately Rs.150 crores under the Arbitration Award dated 02.06.2021 before the second tranche payment which was not contemplated in the Term Sheet. He would submit that such conduct of Plaintiff clearly exhibited that it was not ready or willing to comply with the Term Sheet which was not even a concluded contract.

14.9. He would submit that Defendants by email dated 04.11.2024 made it clear that the Term Sheet had come to an end and sought Plaintiff's bank details to refund the deposit. However, Plaintiff by email dated 05.11.2024 wrongly asserted that the Term Sheet is subsisting. He would submit that subsequent correspondence exchanged between 12.11.2024 and 06.01.2025 further shows that Defendants consistently denied the existence of any binding contract.

14.10. He would submit that Plaintiff thereafter filed Special Civil Suit No. 9 of 2025 on 08.01.2025 seeking specific performance of the Term Sheet and also sought refund of Rs.11 crores with interest in the alternative. He would draw my attention to the prayer clause in the Suit Plaint at page No.171 of Appeal from Order and would submit that there is an alternate prayer for refund of Rs.11 crores with interest @18% p.a. prayed for by Plaintiff.

14.11. He would submit that in compliance with the impugned order Defendants deposited Rs.11 crores before the Trial Court on 18.06.2025. He would argue that in the Suit Plaint without even pleading that the Long Stop Date was extended or that time was not of the essence of contract for the first time across the bar in the Appeal from Order it is submitted by Plaintiff that impliedly the time stood extended.

14.12. He would submit that Clause 12 in the Term Sheet is in the nature of a “Validity Clause” which provides that the Term Sheet would cease to have effect if the conditions precedent were not complied within the prescribed period. He would emphasize that there is no clause in the entire Term Sheet providing for extension of the Long Stop Date, neither the parties agreed to any extension thereof.

14.13. He would submit that several clauses of the Term Sheet such as Clauses 4(b), 4(e) and 12 demonstrate that the Term Sheet is not a concluded contract. He would argue that the potential value of the suit property exceeds Rs.1,000 crores and payment of Rs. 11 crores is only part of a refundable deposit and not towards consideration for acquisition of development rights. He would submit that the Term Sheet was merely an agreement to enter into an agreement and transaction documents further to fructify the contract and therefore it is not specifically enforceable. He would submit that the Term Sheet

being unregistered and un-stamped cannot create any right, title or interest in the suit property.

14.14. Mr. Joshi, in support of his submissions has placed reliance on the decision of the Supreme Court in the case of ***Chandavarkar Sita Ratna Rao Vs. Ashalata S. Guram***³, to contend that it is settled law that if any clause which begins with a non-obstante clause i.e. *‘notwithstanding anything contained ...’* and is incorporated in the contract, it is with the intent to give the enacting provision an overriding effect over all the other clauses of the contract. The relevant paragraph No.67 from the said decision as relied upon by him is reproduced below:-

“67. A clause beginning with the expression “notwithstanding anything contained in this Act or in some particular provision in the Act or in some particular Act or in any law for the time being in force, or in any contract” is more often than not appended to a section in the beginning with a view to give the enacting part of the section in case of conflict an overriding effect over the provision of the Act or the contract mentioned in the non obstante clause. It is equivalent to saying that in spite of the provision of the Act or any other Act mentioned in the non obstante clause or any contract or document mentioned the enactment following it will have its full operation or that the provisions embraced in the non obstante clause would not be an impediment for an operation of the enactment. See in this connection the observations of this Court in South India Corpn. (P) Ltd. v. Secretary, Board of Revenue, Trivandrum.”

14.15. With regard to the essence and effect of Long Stop Date in a contract and time being of essence of the contract, Mr. Joshi has referred to and relied upon the decision of the Supreme Court in the

3 1986 SCC OnLine SC 333

case of *Citadel Fine Pharmaceuticals Vs. Ramaniyam Real Estates Pvt. Ltd. And Anr.*⁴ wherein he has placed reliance on paragraph Nos.39, 46, 47, 50 and 51 of the said decision which are reproduced below for immediate reference:-

“39. In this case, prior to the signing of the agreement, the terms were discussed between the parties and the plaintiff purchaser willingly took upon itself the burden of obtaining the clearance within the time stipulated in the agreement. From the terms of agreement in this case which have been set out in the earlier part of the judgment it is clear that the time is of the essence and this is clearly stipulated and understood by the parties having regard to the previous correspondence and also having regard to the laid-down terms of the contract and especially when the consequence of non-completion of the terms by the purchaser within the stipulated time was spelt out in Clause 9.

XXXXXX

46. The instant case obviously relates to a contract in commercial transaction and the Court can take judicial notice of the fact that in the city of Chennai the price of real estate is constantly escalating and the clear intention of the parties, as it appears from the stipulations of the agreement, was to treat time as the essence of the contract.

47. Having regard to the aforesaid principles the Court cannot attribute a different intention to the parties and cannot specifically enforce the contract at the instance of the plaintiff purchaser who has failed to perform its part of the obligation within the time stipulated.

XXXXXX

50. By referring to various judgments, the Constitution Bench in Chand Rani [(1993) 1 SCC 519] formulated the proposition that even where parties have expressly provided time to be of the essence of the contract, such a stipulation will have to be read along with other terms of the contract. Such other terms, on a proper construction, may exclude the inference that the completion of work by a particular date was meant to be fundamental. The learned Judges indicated the following circumstances which may indicate a contrary inference; (a) if a contract includes clauses providing for extension of time in certain contingencies, or (b) if there are clauses for payment of fine or penalty for every day or week, the work undertaken remains unfinished after the expiry of time. The Constitution Bench held that such clauses would be construed as rendering

⁴ (2011) 9 SCC 147

ineffective the express provision relating to time being of the essence of contract (see para 22 at p. 528 of the Report).

51. In the instant case, in the said agreement no such clause, as aforesaid, exists. Rather the stipulation as time being of the essence of the contract was specifically mentioned in Clause 10 and the consequences of non-completion are mentioned in Clause 9. So from the express terms of the contract and the commercial nature of the transaction and the surrounding circumstances make it clear that the parties intended time in this case was intended to be of the essence of the contract”

14.16. He has referred to and relied upon the decision of the learned Single Judge of this Court (Coram: Somasekhar Sundaresan, J.) in the case of ***Sunteck Realtors Pvt. Ltd. Vs. Bandra Sea Breeze Apartment Co-operative Housing Society Ltd.***⁵ wherein this Court has held that time frame for the purpose of executing the definitive agreement entails a deadline and it entails an integral element for seeking specific performance. The relevant paragraph Nos.24 and 25 of the above decision read thus:-

“24. The time frame for the purpose of executing the Definitive Documents entailed the deadline of February 21, 2024. This was not implemented within the time frame. Therefore, the framework for the specific performance envisaged by the parties, of which the timeframe for execution of the Definitive Documents was an integral part, has to be seen as a whole. Merely because the phrase “specific performance” is used in Clause 22, one cannot lose sight of the fact that implementing the MOAT within the timeframe specified in the MOAT for the purpose, is an equally important and integral element involved for specific performance.

25. Prima facie, it is apparent that parties applied their minds and put pen to paper to a specific timeframe, namely execution of the Definitive Documents including the Development Agreement by February 21, 2024. To secure this requirement, the parties also contracted the Developer providing a fixed deposit of a serious amount of money – Rs. 20 crores – and a grace period of just two calendar days for providing the fixed deposit. Clause 22 is part of the package deal with all the

5 Commercial Arbitration Petition (L) No.30532 of 2025, decided on 06.10.2025

attendant obligations and rights forming an integral feature for specific performance to work.”

14.17. Mr. Joshi has further placed reliance on an English Judgment passed by the High Court of Justice Chancery Division, Royal Courts of Justice Strand, London in the case of ***Ruven Cohen Vs. Teseo Properties Ltd. And Ors.***⁶ wherein the Court has highlighted the effect and importance of the Long Stop Date in the contract in dispute. Relevant paragraph No.35 of the said decision reads as under:-

“35. Again, this feature of the bargain would be undermined if the interpretation of clause 13.5 pressed by Teseo were correct. On the face of it, if the original Long Stop Date of 6 January 2014 came and went without an extension of the Contract being in place, that would be the Termination Date (see clause 13.1) which would have the effects specified in clause 13.4. But, on Teseo’s interpretation of clause 13.5, this would be an illusion, and the Contract could be revived with full effect if Teseo chose later (by 9 June 2014) to request an extension of the Contract. As a matter of pure legal theory, parties to an agreement could agree to create inchoate effects of this kind; but I consider that it is highly implausible to suppose that the parties to this Contract intended to undercut the apparent clear effect of clause 13.1 in this way. In the context of this Contract, the commercial objective of the parties under clause 13.1 was that they should with certainty know where they stood if one came to the end of the Long Stop Date of 6 January 2014 without any request for an Extension of Time (cf Valentines Properties Ltd v Huntco Corporation Ltd [2001] UKPC 14, [2001] 3 NZLR 305, at [16]).”

14.18. In the above context he has read the applicability of the provisions of Sections 31 and 35 of the Indian Contract Act, 1872 relating to contingent contracts becoming void on happening of specified events within a fixed time to the facts of the present case in reference to Clause 12 of the Term Sheet.

6 [2014] EWHC 2442 (Ch), decided on 18.07.2014

14.19. Mr. Joshi, has further referred to and relied upon the decisions of the Supreme Court and Division Bench of this Court in the following cases viz; *Pawan Kumar Dutt and Anr. Vs. Shakuntala Devi and Ors.*⁷, *Shivanand Vassudev Salgaoncar and Ors. Vs. Dattaraj Vassudev Salgaoncar and Ors.*⁸ and *Kalpataru Ltd. Vs. Middle Class Friends Co-operative Housing Society Limited.*⁹ to contend that a Term Sheet is not a concluded contract and is merely an agreement to agree and therefore not enforceable.

14.20. Next, he would submit that subsequent interim order passed by this Court (Coram: Gauri Godse, J.) on 18.08.2025 was only a *prima facie* finding and the Supreme Court by its order dated 26.09.2025 directed this Court to decide the Appeal from Order uninfluenced by such *prima facie* observations. Hence, he would submit that the impugned order dated 03.06.2025 passed by the Trial Court deserves to be upheld and the Appeal from Order deserves to be dismissed.

15. Mr. Samdani, learned Senior Advocate for Appellant – Plaintiff in his brief Rejoinder to Mr. Joshi's submissions has drawn my attention to Plaintiff's Affidavit-in-Rejoinder dated 12.11.2025 filed by Mr. Ajay Nair, authorized signatory of Plaintiff appended at page No.122 onwards and contended that Clause 12 in the Term Sheet is in

⁷ (2010) 15 SCC 601

⁸ 2014 SCC OnLine Bom 1250

⁹ Commercial Arbitration Petition (L) No.11890 of 2021, decided on 20.10.2022

the nature of an exception and due to its non-obstante clause it will have to be therefore construed very strictly. He would submit that if Defendants' case for reliance on conditions precedent is accepted by Court then in the same breath under the Rule of strict construction the later part of Clause 12 will have to be construed against Defendants because after the expiry of two (2) months from the Long Stop Date, the Defendants failed to return Rs.11 crores i.e. deposit received under the first tranche and only in November 2024 for the first time after repeated correspondence addressed by Plaintiff, Defendants expressed their desire to refund the same, but still never refunded the same.

15.1. He would vehemently submit that no refund was made by Defendants of the said amount in this context and therefore due to the conduct of both parties the Long Stop Date i.e. 11.04.2024 cannot come into play at all and thus becomes redundant. He would submit that Defendants have not pleaded that execution of Transaction Documents is a condition precedent and now in the Appeal from Order it cannot be argued as a condition of bargain by them. He would argue that the Term Sheet is neither an Agreement for Sale nor Development Agreement and submit that it is a Joint Development Agreement in the nature of a quasi-partnership. He would reiterate the principle laid down by the Supreme Court in the case of *Kollipara Sriramula (supra)* that it is well established that mere reference to a future formal contract (in this case Transaction Documents) will not prevent a

binding bargain between the parties and the intention of the parties will have to be gathered from the contract. He would reiterate at the cost of repetition once again that the entire Term Sheet be considered by Court as a whole to establish the intention of the parties to determine the right of Plaintiff seeking interim relief which has been denied by the learned Trial Court. He would submit that merely depositing Rs.11 crores in Court is no solace to the Plaintiff as it transgresses a valuable right of the Plaintiff for seeking specific performance of the Term Sheet.

16. I have heard Mr. Samdani, learned Senior Advocate for Plaintiff and Mr. Joshi, learned Senior Advocate for Defendants and with their able assistance perused the record of the case. Submissions made by both the Advocates at the bar have received due consideration of the Court. I must appreciate the assistance rendered by both of them and their assisting junior Counsel to the Court during hearing of the present case.

17. Two questions arise for determination in the *lis* between the parties:-

- (i) *Whether the Term Sheet dated 12.04.2023 is a 'concluded contract' between the parties and therefore enforceable or not?; and*
- (ii) *What is the significance of the 'Validity Clause 12' and the 'Long Stop Date' in the Term Sheet?*

18. The common order below 'Exhibit 5' and 'Exhibit 22E' is appended at Exhibit 'A' – page No.37 of the Appeal From Order. It is dated 03.06.2025. Appeal From Order is filed by Plaintiff to assail the said order. Submissions made on behalf of Plaintiff duly represented by Mr. Samdani, learned Senior Advocate are on the premise that the Term Sheet dated 12.04.2023 is a concluded contract and the same is enforceable. To fortify his submissions he has submitted that the Term Sheet begins with the words '*terms of agreement between the parties with respect to grant of development rights.....*' meaning thereby that both parties have agreed upon Joint Development.

19. Both the learned Senior Advocates have persuaded me to read Clauses 2, 3 and 4 of the Term Sheet to contend that what is stated therein are the rights and obligations of each of the parties *qua* the Agreement between the parties which delve upon the project of Joint Venture / Joint Development undertaken by them, *per se* agreed to be jointly developed, entitlement of revenue generated from the project to the respective parties i.e. sharing of revenue, allotment, sales, planning strategy, identification of land for four (4) phases, obligations to be undertaken etc. Mr. Samdani, would interpret these terms as a concluded contract whereas Mr. Joshi's interpretation is to the contrary as much is desired to be undertaken and decided in future.

20. According to Plaintiff, all terms and conditions between parties are part of the Term Sheet and hence the said Term Sheet becomes an enforceable document as it recites so in Clause 11 of the same. To counter this submission, case of Defendants is however to the contrary. Defendants have heavily relied upon Clause 12 of the Term Sheet which is its Validity Clause. Essentially, what is argued before me by both sides is the dichotomy between Clause 11 which speaks of enforceability of the Term Sheet and Clause 12 which speaks of the Long Stop Date in the Term Sheet as its consequences. Hence to adjudicate the *lis* both Clause 11 and Clause 12 are reproduced below for immediate reference:-

11.	Miscellaneous	(a) Each Party has undertaken obligations and has rights specified in this Term sheet on their own account and on principal-to-principal basis and not on behalf of, or on account of or as agent of any of them or of anyone else. (b) Transaction Documents will be mutually finalised and executed between the parties and registered as detailed hereinabove and after execution of the Transactions Documents this Term Sheet will stand cancelled. (c) This Term Sheet is signed against receipt of the consideration and shall be enforceable. (d) This Terms Sheet is executed in two (2) originals, each of which shall be deemed an original and together shall constitute one and the same document, with one original being delivered to each party hereto.
12.	Validity	Notwithstanding anything contained herein, it is agreed that: (I) JP shall; (a) complete the due diligence in respect of the said Lands, and accept or reject the title of Aditya in respect of the

		said Lands on or before 11th April 2024m i.e. 12 months from the date hereof (“Long Stop Date”) and (b) execute and register the Transaction Documents on or before the Long Stop Date; and (II) In the event: (a) JP does not complete the due diligence on or before the Long Stop Date or (b) JP does not accept or reject the title of Aditya on or before Long Stop Date or (c) JP rejects the tile of Aditya on or before Long Stop Date or (d) the Transaction Documents are not executed and registered by parties on or before the Long-Stop Date, for any reasons whatsoever, then in that event: (a) JP shall be entitled for refund of the aforesaid sum of Rs.11,00,00,000/-, without any interest, compensation from Aditya and (b) Aditya shall refund the aforesaid sum of Rs.11,00,00,000/-, without any interest, compensation, latest within two months from expiry of the Long Stop Date or form the date of rejection of title of Aditya by JP, whichever is earlier, and (c) Till such time that the aforesaid sum of Rs.11,00,00,000/- has not been repaid to JP, Aditya shall not be entitled to deal with the said Lands in any manner whatsoever including but not limited to executing Term Sheet/Receipt etc. and (d) upon refund the said sum of Rs.11,00,00,000/-, to JP within two months as aforesaid, this Term Sheet shall automatically and ipso facto stand terminated, and neither Party shall have any claim of any nature whatsoever against the other Party.
--	--	---

21. From the above it is seen that the Validity Clause 12 is a non-obstante clause. Defendants’ submission that notwithstanding anything contained in the Term Sheet, parties have agreed that Plaintiff shall (*emphasis supplied*) complete due diligence and accept or reject the title of Defendants in respect of the suit property and execute and register the transaction documents within a period of one year from

the date of Term Sheet which is nomenclatured as 'Long Stop Date'. is sacrosanct as condition precedent. Defendants have vehemently argued that obligation of Plaintiff to complete and comply with the aforesaid exercise was within a period of one year from the date of execution of the Term Sheet and that not having been done, the consequences thereof have been stated in the same Validity Clause further and it is contended by them that admittedly Plaintiff having failed to accept or reject the title of Defendants, Plaintiff having failed to execute and register the Transaction Documents before the Long Stop Date for any reason whatsoever, then in that event the said Validity Clause automatically determines the Term Sheet.

22. It is argued by Defendants that in any case if Plaintiff fails to carry out the aforesaid, then it shall be entitled for refund of Rs.11 crores without any interest from Defendants and Defendants shall refund the same latest within two months from the expiry of the Long Stop Date or from the date of rejection of the title of Defendants by Plaintiff whichever is earlier.

23. In the present case, it is seen that in terms of due diligence public notice was issued by Plaintiff in the newspapers calling for objections in the month of May 2023 within one month of signing the Term Sheet, but due diligence was admittedly never completed. Response to the said public notice was infact received from 3 objectors

in the month of May and July 2023 and another objector in May 2024 much after the Long Stop Date.

24. In the meanwhile, there is correspondence between the parties during the first year after signing the Term Sheet with respect to certain Suit proceedings pending in the Civil Court which were under settlement consideration. Admittedly, save and except the above Plaintiff did not accept or reject the title of Defendants nor executed and registered the transaction documents on or before the Long Stop Date i.e. 11.04.2024. This is very significant. Neither the parties mutually extended the Long Stop Date for effecting compliances beyond the said date. Though, Plaintiff has argued that the Long Stop Date will have no consequence in law in the facts and circumstances of the present case considering Clause 11 of the Term Sheet on a holistic consideration, I am not inclined to accept such a wide and sweeping submission made on behalf of the Plaintiff.

25. It is seen that Clause 12 of the Term Sheet starts with the non-obstante clause and use of the words '*notwithstanding anything contained therein...*' makes the 'Validity' clause stand-alone, self-operative and independent of all other terms of the Term Sheet. Further laying stress on the words '*for any reason whatsoever*' makes the said Validity clause a 'default-neutral clause' which means that it comes into effect irrespective of the fact as to which of the party is at

default.

26. Admittedly, it is seen that the Long Stop Date i.e. 11.04.2024 was never extended by the parties either expressly or by their conduct. Silence of the parties cannot amount to affirmation or extension of the Long Stop Date, neither it is pleaded by Plaintiff in the Suit Plaint filed before the Trial Court that the Long Stop Date stood extended beyond its tenure in any manner whatsoever.

27. Mr. Samdani, in his usual fairness rather has argued that no significance be attached whatsoever to the concept or effect of a Long Stop Date in the Term Sheet under consideration in view of the rights and obligations of the parties and intention of the parties to be gathered from reading of all the other clauses in the Term Sheet. I am afraid that I am not able to agree to the same.

28. The effect of a Long Stop Date in a contract and in this case the Term Sheet if not complied with the conditions precedent would automatically determine the contract. A Long Stop Date is not like a date scheduled for completion. It is rather a well-recognized concept in commercial law. It is an end date provided for performance and certainty of the contract going forward. After the Long Stop Date, if the conditions are not fulfilled, there is no Agreement at all and in the present case the Term Sheet stood automatically terminated as far as proposal for development is concerned. A Long Stop Date prevents the

contract / Agreement from remaining open indefinitely, sets a deadline and rather protects both parties. It is also called 'drop-dead date', 'drop-dead provision', 'outside date', 'termination date', 'end date', 'outer date' and 'sunset clause' in some instruments. The contention of Plaintiff therefore is *prima facie* contrary to the plain meaning of the Validity Clause and the Validity Clause will have to be read as it is in the context of the Term Sheet.

29. Plaintiff's case and argument that the Term Sheet would have stood terminated only after Defendants had refunded the deposit amount of Rs.11 crores i.e. Refundable Security Deposit within two months of the Long Stop Date as stated in Clause 12 and not otherwise is also not acceptable for the simple reason that if the said amount was not refunded by Defendants to Plaintiff, the Validity Clause places an automatic injunction and embargo on the Defendants from dealing with their property further in any manner whatsoever.

30. It is therefore seen that the Term Sheet in the facts and circumstances of the present case came to an end on the Long Stop Date i.e. 11.04.2024 and any act of Plaintiff thereafter of having sent the Draft JDA / Transaction Document on 22.10.2024 cannot be countenanced as having extended the time frame of the Long Stop Date by any implied conduct of the parties unless the parties had mutually agreed upon to extend the Long Stop Date beyond

11.04.2025. Once Plaintiff failed to communicate its acceptance and rejection of the title of Defendants and did not execute and register the transaction documents before the Long Stop Date for any reason whatsoever (*emphasis underlined*) the Term Sheet automatically came to an end in the present case and Plaintiff would be entitled to refund of Rs.11 crores from Defendants.

31. In this regard, reliance is placed on paragraph Nos.31 to 35 in the case of *Ruven Cohen (supra)*, wherein there was a similar Long Stop Date agreed to by the parties therein and the Court held that as per the said clause incorporating the Long Stop Date the commercial objective of the parties was that they should with certainty know where they stood if one came to an end of the Long Stop Date without any request for an extension of time. In the present case also admittedly there is no extension of the Long Stop Date between the parties and therefore on the Long Stop Date i.e 11.04.2024 the Term Sheet stood automatically terminated.

32. Essence of the Long Stop Date in a contract is a “contractual deadline” by which certain conditions agreed by the parties must be met (*emphasis supplied*) for the contract to proceed. If the conditions are not fulfilled or waived by this date the contract either terminates automatically or one of the parties will have right to withdraw preventing them from being locked into an open – ended commitment.

33. Long Stop date provides ultimate certainty for parties involved. *Prima facie* it sets a deadline by which date all pre-requisites for the transaction as agreed must be completed and it protects parties from being indefinitely bound to a deal if external factors cause delay preventing contract from becoming unreasonable or impossible to perform. Long Stop Date provides for a clear exit strategy if the obligation/s is / are not met with as agreed by parties by the stipulated deadline.

34. It is also known as ‘sunset clause’ in law. A sunset clause is a provision that can be included in a contract or even in any legislation to delimit the validity, applicability or enforceability of a law / contract on a timescale. The underlying principle behind sunset clause namely in statutes can be traced back to a Roman Law Rule that meant ‘*what is applicable for specified period would cease to be applicable beyond that time*’. It reiterates a basic principle of good jurisprudence. Long Stop Date is a final drop-dead deadline by which all conditions precedent must be met or the contract can be terminated. It is included in a conditional contract which is common in Mergers and Acquisition, Real Estate and Construction Contracts.

35. Mr. Joshi, has referred to and relied upon the decision in the case of *Sunteck Realtors Pvt. Ltd. (supra)*, wherein this Court has held that the time frame for the purpose of executing the definitive

Agreement entails a deadline and it entails an integral element for specific performance if there is incorporation of the Long Stop Date in the Agreement. In the present case once it is clearly established that the Validity Clause 12 in the Term Sheet prevails over all other clauses in the Term Sheet, I am not inclined to accept the submissions advanced by Mr. Samdani that enforceability of the Term Sheet under Clause 11 becomes relevant dehors the Validity Clause on reading of the other clauses of the Term Sheet. The validity clause existing in the Term Sheet clearly prevails over all other clauses and the conditions in the said Validity Clause not having been admittedly performed by Plaintiff, the Agreement between the parties as per the Term Sheet inevitably came to an end on 11.04.2024 and thereafter reserving the right of Plaintiff to receive the amount of Rs.11 crores as stated in the said clause.

36. Though it is vehemently argued by Plaintiff that terms and conditions between the parties in the Term Sheet have been detailed minutely and incorporated therein and therefore it is to be treated as a 'concluded contract', the Defendants have however refuted the same by arguing that the Term Sheet is not a concluded contract and is merely an agreement to agree which cannot be enforced.

37. In this context, it is seen from the Term Sheet that under Clause 4(b) execution of further Agreement namely the Joint

Development Agreement and transaction documents and structuring of transaction in a tax efficient manner was required to be complied with by the parties on or before the Long Stop Date. It is also seen that Plaintiff did not have permission to enter upon the suit property belonging to Defendants as a licensee after execution of the Term Sheet and that would be entitled only upon execution of the transaction documents. Therefore, these two clauses *prima facie* show that the Term Sheet was a prudent arrangement with a validity period and specific obligations were required to be undertaken and fulfilled as stated in Clause 12 of the Term Sheet.

38. Further it is seen that though Plaintiff has argued that Joint Development would be undertaken on an area admeasuring 80,104.35 square meters out of the larger land, Defendants have vehemently contested this claim by arguing that identification of the property and Joint Development agreed between parties in the Term Sheet was to be undertaken in four (4) phases as stated in Clause 4(e) which were yet to be identified, decided and finalized by the parties prior to execution of the transaction documents alongwith ascertainment of development potential / FSI on the basis of prevailing regulations as also planning to be effected in the most efficient manner in consonance with the provisions of UDCPR for consumption of entire project FSI available on the said lands. All this was required to be done and transaction documents therefore had to be executed and registered. Therefore, I

am inclined to accept the submissions advanced by Mr. Joshi that the Term Sheet as it stands cannot be construed as a concluded contract between the parties.

39. It is seen that the rights and obligations of the parties are stated in Clause 7 of the Term Sheet but what deserves significance in the present case is the Validity Clause and it is seen that apart from issuing the public notice for due diligence the Plaintiff has not complied with any of the other conditions stated thereunder on or before the Long Stop Date.

40. In the pleadings of the parties, it is seen that Defendants have stated on oath that they offered to refund the deposit immediately after the Long Stop Date but in reply thereto, such assertion of Defendants is not denied by Plaintiff. However, in view of the fact that I am inclined to hold the existence of the Validity Clause 12 superseding all other clauses, it would not be really necessary for me to further delve into the issue of “readiness and willingness of the parties” as in my opinion that would not be relevant since the amount of Rs.11 crores has now been already deposited in Court by Defendants.

41. In the facts and circumstances of the present case which are argued before me the two principal submissions / arguments made before me are on concluded contract *viz-a-viz* the Validity Clause and

Long Stop Date which go to the root of the matter which I have dealt with hereinabove.

42. In the case of *Pawan Kumar Dutt and Anr. (supra)* the Supreme Court held that if at all the Agreement does not specify / identify the suit property out of the total extent in the absence of boundaries or other specifications, then specific performance of such Agreement cannot be granted. Paragraph No.7 of the said judgment is relevant in this regard since identification of the property is also the bone of contention argued before me by the learned Senior Advocates which I have to dealt with hereinabove in paragraph No.38. Paragraph No.7 of the said decision reads thus:-

“7. But the position in the present case is different; that a portion out of the total larger extent was agreed to be sold, but, without specification of the area agreed to be sold. It is clear from the suit agreement that no boundaries of the suit property which was sold are specified in the agreement. It is not clear from what point the area is to be measured. It is also not clear that these 4 bighas 2 biswas is a portion of the land situated in the middle of the total land or in one portion or at the extreme end or at a particular place, in other words, there is no clear identity of the property agreed to be sold. The courts are not expected to pass a decree which is not capable of enforcement in the courts of law. If the argument of the learned counsel for the appellants is to be accepted and if a decree is to be granted for specific performance, without identification of the suit property, it will not be possible to enforce such a decree.”

43. On the issue of whether the future contract required to be entered into between the parties would be a mere formality or what terms remain to be decided between the parties, the same is covered by the decision of this Court in the case of *Kalpataru Ltd. (supra)*. The

said decision of this Court has laid down a test to determine whether or not every arrangement in which there is a reference to a future formal Agreement would amount to a concluded contract or otherwise. However, in the present case as alluded to hereinabove, apart from the fact that certain future Agreements were infact required to be executed and determined between the parties known as transaction documents what stands out is the Validity Clause which supersedes all other clauses in the Term Sheet.

44. Both the parties have referred to and relied upon the decision of the Supreme Court in the case of *Kollipara Sriramula (supra)* which infact also holds that in cases where signing of a future formal Agreement is made a condition or term of the bargain and if the formal Agreement is not approved and signed, then there is no concluded contract. However in the present case, at the cost of repetition, I would reiterate that the Validity clause in the Term Sheet is an overriding clause which provides for a Long Stop Date which has a clear significance in law on the validity of the Term Sheet and upon it being a conditional clause.

45. In the present case, it is seen that Plaintiff had approached Defendants for the first time only on 22.10.2024 after the Long Stop Date in which Plaintiff stated that it intended to meet, discuss and then agree upon the terms of the transaction read with the draft JDA

attached to the email. Much has been argued by both the learned Senior Advocates on this, wherein Mr. Joshi has submitted that one of the essential terms of the JDA proposed was to call upon Defendants to pay the Award amount of Rs.75 crores + interest totalling to Rs.150 crores upfront to the third party in whose favour the said Award was passed in Arbitration proceeding as a condition precedent which would essentially be contrary to the terms and conditions of the Term Sheet because in the Term Sheet, payment of this award amount under the Arbitration Award dated 02.06.2021 was never a condition precedent for payment of the second tranche as agreed upon by the parties.

46. Thus, it is argued by Defendants that even otherwise the Plaintiff chose to change terms of the Term Sheet. *Prima facie* it is seen that the Term Sheet clearly reads out its determinable nature due to its Validity Clause and therefore specific performance *prima facie* cannot be granted. Reliance is also placed on Sections 31 and 35 of the Indian Contract Act, 1872 by Defendants in their submission to contend that in view of the validity Clause 12 of the Term Sheet unless and until the conditions stated in Clause 12 were complied with, it would not be enforceable under the aforesaid statutory provisions. Sections 31 and 35 of the Indian Contract Act read thus:-

“31. “Contingent contract” defined.—A “contingent contract is a contract to do or not to do something, if some event, collateral to such contract, does or does not happen.

35. When contracts become void, which are contingent on happening of specified event within fixed time.—Contingent

contracts to do or not to do anything if a specified uncertain event happens within a fixed time become void if, at the expiration of the time fixed, such event has not happened, or if, before the time fixed, such event becomes impossible.

When contracts may be enforced, which are contingent on specified event not happening within fixed time.—Contingent contracts to do or not to do anything, if a specified uncertain event does not happen within a fixed time may be enforced by law when the time fixed has expired and such event has not happened or, before the time fixed has expired, if it becomes certain that such event will not happen.”

47. In view of the above, it is therefore held that the only obligation of Defendants that would remain in the aforementioned facts and circumstances of the present case after the conclusion of the Long Stop Date would be to refund the amount of Rs.11 crores, which has been deposited by Defendants in the Trial Court on 18.06.2025.

48. The suit property admeasures 20 Acres and as pleaded by Defendants in their pleadings and not denied by Plaintiff is having a potential and worth more than Rs.1000 crores in the market. Hence, once the amount of Rs.11 crores having been secured and deposited in the Court in view of the alternative decree sought for by Plaintiff in the Suit filed by Plaintiff for refund of Rs.11 crores with interest, in the above facts and circumstances the balance of convenience is clearly in favour of Defendants.

49. In this context attention is invited to Section 14(1)(a)(c) and 41(e) of the Specific Relief Act, 1963 which would also become relevant in the facts and circumstances of this case as discussed hereinabove. The said Sections read thus:-

“14. Contracts not specifically enforceable.-

(1) The following contracts cannot be specifically enforced, namely:-

(a) a contract for the non-performance of which compensation in money is an adequate relief;

(b) xxx xxx;

(c) a contract which is in its nature determinable;

(d) xxx xxx.

41. Injunction when refused.- An injunction cannot be granted-

(a) to (d) xxx xxx

(e) to prevent the breach of a contract the performance of which would not be specifically enforced;

(f) to (j) xxx xxx.”

50. The question whether the parties acted as per its obligations under the Term Sheet has been answered hereinabove. On or before the Long Stop Date admittedly Plaintiff has failed to comply with its obligations. The Long Stop Date was over on 11.04.2024 on which date the Term Sheet came to an end. Once the Long Stop Date was over the agreement between the parties cannot be re-ignitioned. Once the title of the Defendants was neither accepted or rejected and the transaction documents were not executed and registered on or before the Long Stop Date, the Agreement / contract in the present case stood terminated and Plaintiff therefore cannot plead for its enforcement.

51. Further it is seen that even after the Long Stop Date, Plaintiff is unable to show that there were negotiations between the parties to extend the said date. From reading of the Term Sheet and more specifically Clauses 11 and 12 it is clear that the Validity Clause 12 overrides and prevails all other clauses and if the conditions precedent are not complied with the Agreement / Term Sheet automatically

comes to an end on the Long Stop Date itself and becomes un-enforceable.

52. To give an example suppose if the Plaintiff would have rejected the title of the Defendants well before the Long Stop Date for any reason whatsoever which is specifically stated in the Validity Clause then in that case the Term Sheet would have come to an end entitling the Plaintiff for refund of its Rs.11 crores. Thus the validity of the Term Sheet in view of the Long Stop Date stated therein cannot be construed beyond that date as open-ended unless specifically agreed upon by both the parties mutually for further extension. In view of the above observations and findings the points for determination stated in paragraph No.17 hereinabove are answered as follows:-

Sr. No.	Points For Determination	Answers
(i)	Whether the Term Sheet dated 12.04.2023 is a 'concluded contract' between the parties and therefore enforceable or not?	In the Negative
(ii)	What is the significance of the 'Validity Clause 12' and the 'Long Stop Date' in the Term Sheet?	As held hereinabove

53. In view of the above observations and findings, I am of the considered opinion that Plaintiff has failed to establish any *prima facie* case or demonstrate that the balance of convenience lies in his favour for seeking injunction against the Defendants. The impugned order clearly records that there was no concluded contract between the

parties and the findings returned in paragraph Nos.12 to 14 of the said order therefore deserve to be upheld. The impugned order challenged in the present Appeal From Order, is in my opinion, is a well reasoned and balanced order and does not suffer from any infirmity and arbitrariness whatsoever and is therefore confirmed and upheld.

54. In view of the above observations and findings, Appeal From Order is dismissed.

[MILIND N. JADHAV, J.]

55. After the judgment is pronounced in open Court, Mr. Samdani, learned Senior Advocate for Appellant prays for stay of the judgment and continuation of interim relief dated 18.08.2025 to test the validity and legality of said judgment in the Supreme Court.

56. Mr. Joshi, learned Senior Advocate for Respondents would oppose the grant of any such order in view of timeline in the present case which has been noted by the Court.

57. However, I am inclined to accept the request made by Mr. Samdani and continue the interim order for further period of four weeks from today to enable the parties to take appropriate steps as available to them in law.

[MILIND N. JADHAV, J.]

Ajay

AJAY
TRAMBAK
UGALMUGALE
Digitally signed by
AJAY TRAMBAK
UGALMUGALE
Date: 2025.11.17
12:16:59 +0530