

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

ARBITRATION APPEAL NO. 1 OF 2025

M/s. S D Bhalerao Construction Pvt. Ltd.
Through Director And Authorised Signatory
Mr. Sanjay Bhalerao ... Appellant

Versus

M/s Vartak Nagar Prakash Co-Operative
Housing Society Ltd. Thane & Ors. ... Respondents

**WITH
INTERIM APPLICATION NO. 12100 OF 2025
WITH
INTERIM APPLICATION NO. 7757 OF 2025
WITH
INTERIM APPLICATION NO. 57 OF 2025
IN
ARBITRATION APPEAL NO. 1 OF 2025**

Mr. Rajesh Datar, Senior Advocate a/w. Dushyant Pagare, for Appellant.

Mr. Prashant Vasudeo Malik, for Respondents.

Mr. Sanjay Bhalerao- Appellant present.

CORAM : SOMASEKHAR SUNDARESAN, J.

DATE : SEPTEMBER 30, 2025

PC :

1. Liberty to file Vakalatnama on behalf of the Respondents and the proposed Respondents.
2. After the matter was argued for some time, Learned Counsel

representing the Society and the Developer submits that they would be willing to proceed before an arbitrator to pursue remedies under Section 17 of the Act.

3. The same advocate represents both the new Developer as well as the Society and it is stated that the Society has given a power of attorney to the Developer, and therefore, it is for the Developer to issue instructions to oppose the arbitrator appointed earlier, who is said to be an unilaterally appointed arbitrator.

4. Mr. Datar, Learned Senior Advocate on behalf of the Appellant has no objection if this Court wants to appoint an independent arbitrator. Mr. S.D. Bhalerao submits that there is no quarrel with proceeding to arbitration.

5. In these circumstances, the appeal is *disposed of* allowing all contentions in the Section 9 Petition to be dealt as an application under Section 17 of the Arbitration and Conciliation Act, 1996 by the arbitrator. It is up to the Appellant to demonstrate to the arbitral tribunal that the new Developer is a veritable party and for him to also be roped into the arbitration proceedings. In any case, the contention on behalf of Learned Advocate representing both the Society and the Developer is that their interests are alive and the Society has given a power of attorney to the Developer to take decisions in connection with

the redevelopment which has remained unimplemented for over a decade.

6. All actions required to be taken pursuant to this order, shall be taken upon receipt of a downloaded copy as available on this Court's website.

[SOMASEKHAR SUNDARESAN, J.]