
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
IN ITS COMMERCIAL DIVISION

COMMERCIAL ARBITRATION PETITION NO. 23 OF 2025

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Tushar Purushottam Patel
& 7 Ors.

... Petitioners

Vs.

Dynamic Realty Enterprises & 2 Ors.

.. Respondents

Mr. S.R. Firodiya, *for Petitioners.*

Mr. Jaydeep Deo, *for Respondents.*

CORAM : SOMASEKHAR SUNDARESAN, J.

Date : July 2, 2025

Order :

1. Learned Counsel for the Respondent has entered appearance and accepts notice. Liberty to file *vakalatnama* on behalf of the Respondents.
2. This Petition has been filed under Section 11 of the Arbitration and Conciliation Act, 1996 (*"the Act"*), seeking appointment of an arbitrator in connection with disputes and differences that are said to have arisen between the parties under the Development Agreement dated February 27, 2017 (*"Agreement"*). The arbitration agreement is contained in Clause 21 (found at Page 74 of the Petition). In the interest of brevity, the arbitration

agreement is not being extracted here. Suffice it to say that this matter falls within the jurisdiction of this Court.

3. After the matter was argued for some time, Learned Counsel for the parties jointly submit that they have reached consensus on proceeding to arbitration. The only explicit affirmation they wish to record in this order is that the reference to arbitration would be not only of the Agreement dated February 27, 2017 but also of a Supplementary Agreement dated January 3, 2022.

4. It is made clear that this Court expresses no opinion about whether the Supplementary Agreement substitutes the earlier agreement or supplements the earlier agreement. That is a matter of detail on merits which falls under the domain of the Arbitral Tribunal. All contentions of the parties in respect of both Agreements are expressly kept open and disputes about both the agreements are hereby referred to arbitration.

5. With the aforesaid observations, all disputes and differences between the parties in both the aforesaid Agreements are hereby referred to arbitration and the Petition is ***finally disposed of*** in terms of the following terms :

A] Smt. Shalini Phansalkar Joshi, Former Judge of this Court,

is hereby appointed as the Sole Arbitrator to adjudicate upon the disputes and differences between the parties arising out of and in connection with the Agreements referred to above. The contact particulars are set out below :

Office Address:-Bhagya Chintamani Society,
Opp. Kachra Depot, Paud Road, Kothrud,
Pune 411038.

Email : phansalkarjoshi@gmail.com

B] A copy of this Order will be communicated to the Learned Sole Arbitrator by the Advocates for the Petitioners within a period of one week from the date on which this order is uploaded on the website of this Court. The Petitioners shall provide the contact and communication particulars of the parties to the Arbitral Tribunal along with a copy of this Order;

C] The Learned Sole Arbitrator is requested to forward the statutory Statement of Disclosure under Section 11(8) read with Section 12(1) of the Act to the parties within a period of two weeks from receipt of a copy of this Order;

D] The parties shall appear before the Learned Sole Arbitrator on such date and at such place as indicated, to obtain appropriate directions with regard to conduct of the arbitration including fixing a schedule for pleadings, examination of witnesses, if any, schedule of hearings etc. At such meeting, the parties shall provide a valid and functional email address along with mobile and landline numbers of the respective Advocates of

the parties to the Arbitral Tribunal. Communications to such email addresses shall constitute valid service of correspondence in connection with the arbitration;

E] All arbitral costs and fees of the Arbitral Tribunal shall be borne by the parties equally in the first instance, and shall be subject to any final Award that may be passed by the Tribunal in relation to costs.

6. Needless to say, nothing contained in this order is an expression of an opinion on merits of the matter or the relative strength of the parties. All issues on merits are expressly kept open to be agitated before the arbitral tribunal appointed hereby.

7. 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.]