
**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
ARBITRATION PETITION NO. 101 OF 2024**

Nehru Nagar Saptarshi CHSL

... Petitioner

Vs.

Reliance Realtor Estate
Developers And 4 Ors

.. Respondents

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Mr. Vincent X. D'silva, for Petitioner.

**Mr. Farhan Dubash a/w.Ms. Kausar Banatwala, Mr. Yash Sinha i/b
Tushar Goradia, for Respondent Nos. 4 and 5.**

CORAM : SOMASEKHAR SUNDARESAN, J.

Date : June 23, 2025

Order :

1. This is a Petition under Section 9 of the Arbitration and Conciliation Act, 1996 ("***the Act***") seeking certain interlocutory reliefs in respect of disputes and differences connected with a Joint Development Agreement, dated April 18, 2019 ("***Rockford Agreement***") executed between the Petitioner, Respondent No. 1 (earlier Developer appointed by the Society) and Respondent No. 4.

2. At the heart of the factual matrix is an earlier Development Agreement dated December 4, 2009 ("***Reliance Agreement***") between Respondent No. 1 and the Petitioner which contained an arbitration clause that would enable

disputes and differences between Petitioner-Society and the Respondent No.1 to be subjected to resolution by arbitration.

3. The Rockford Agreement entails Respondent No. 4 taking over the redevelopment project from Respondent No. 1 and performing the redevelopment. Clause 11.4 of the Rockford Agreement stipulates that Respondent No. 4 would bear the amount agreed to be paid to the Petitioner-Society and outstanding corpus fund as well as transit accommodation rent, until the time of possession of the redeveloped flat. Possession of the redeveloped flats to the members of the Society is said to have been given sometime in April 2024 and a full Occupation Certificate had been obtained on July 31, 2024.

4. The disputes and differences between the parties today, for which protective reliefs are sought, relates to alleged underpayment of the transit accommodation rent that had been contracted between Respondent No. 1 and the Petitioner-Society. Learned Counsel for Respondent No. 4 submits that the parties had arranged for a lower scale of payment with focus on completion of the project. According to him, the Petition as is being pursued today, represents an afterthought for recovering the agreed scaling down of the financial payments under the Rockford Agreement moving away from the Reliance Agreement. None of these facets needs to detain attention of this

Court simply because one of the preconditions for a Section 9 Court to consider grant of relief is to examine the existence and scope of the arbitration agreement, since it is only the subject matter of the arbitration agreement that can be preserved by appropriate orders under Section 9 of the Act.

5. Clause 20 of the Rockford Agreement explicitly provides that the arbitration agreement is restricted to disputes and differences between the Respondent No. 1 and Respondent No. 4. This facet of the matter is not contested since the very provision makes it clear that the disputes and differences that are subjected to arbitration under the Rockford Agreement are those between Respondent No. 1 and Respondent No. 4.

6. So also, Clause 21.2 explicitly provides that the Rockford Agreement would supersede all prior understandings, writings and ***agreements*** between the parties with respect to the subject matter of the Rockford Agreement. Consequently, it is evident on the face of the record that the Rockford Agreement superseded and overwrote the relationship between the parties as contained in the Reliance Agreement. The Rockford Agreement contains an arbitration clause which is restricted to disputes and differences between the Respondent No. 1 and Respondent No. 4. Consequently, the existence of an arbitration agreement for purposes of claims that the Petitioner may have

against Respondent No. 4 does not form part of the arbitration agreement contained in the Rockford Agreement.

7. In these circumstances, evidently, this Court would not have jurisdiction to entertain the request for interlocutory reliefs in the absence of an arbitration agreement between the Petitioner and Respondent no. 4. Should the Petitioner be advised to institute appropriate proceedings in such other forum, as may be available to the Petitioner in law, the Petitioner would be at liberty to do so.

8. It is noted that this Petition has been lying on the docket of this Court right since 2022 before the project was completed and the Petitioner has a *bona fide* cause of action for which this Petition was originally filed and pursued. However, subsequent events have overtaken the same. Be that as it may, in the absence of an arbitration agreement, for which the subject matter would fall for my consideration, no relief can be granted in terms of this Petition. Consequently, this Petition is ***finally disposed of*** without any relief being granted.

9. 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.]I