
**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS COMMERCIAL DIVISION
ARBITRATION PETITION NO. 11 OF 2025**

Saurashtra CHS Ltd

...Petitioner

Versus

Sayla Realtors

...Respondent

Mr. Shrey Fatterpekar, a/w Kartik Gantha & Hena Gothi, i/b Omkar Khanvilkar, for the Petitioner.

Mr. Bhavesh Parmar, a/w Vijayprakash Yadav, Reshma Nair, for Respondent.

CORAM : SOMASEKHAR SUNDARESAN, J.

DATE : FEBRUARY 7, 2025

PC :

1. This is the second round of disputes between the parties covered by this Petition, filed under Section 9 of the *Arbitration and Conciliation Act, 1996* (“***the Act***”).

2. It is seen from the record that by a consent award dated March 5, 2021 the disputes between the parties came to be settled on the premise that the Registered Development Agreement dated November 3, 2014 is valid and subsisting. The parties had agreed in the consent award that they would take steps to implement the Registered

Development Agreement, as modified in the Consent Terms.

3. Learned Counsel for the Respondent submits that arbitration can never be invoked in this case because the Consent Terms do not contain an arbitration clause. Such submission, in my opinion, is without merit, by a plain reading of Paragraphs Nos.2 and 3 of the Consent Terms which reads as thus:-

“2. The Parties agree, acknowledge and declare that even as on date, the duly stamped and registered Agreement dated 3 November, 2014 (“said Registered Development Agreement”) is legally valid, subsisting and binding on both parties.

3. The Parties agree, declare and undertake that they shall hereinafter abide by the terms and conditions agreed upon and recorded in the said Agreement and as contemplated in these Consent Terms.”

4. Even a plain reading of the foregoing would show that the Registered Development Agreement has been reiterated as being legally valid, subsisting and binding on the parties. It is that agreement, which contains the arbitration agreement. Therefore, the parties have reiterated that the arbitration agreement between them is valid, subsisting and binding on both the parties. Consequently, the

contention that the arbitration agreement does not exist, is rejected. Whether any issue arising in the disputes between the parties is already ruled upon, or whether there is any cause of action that has emerged, are all issues that fall within the domain of the arbitral tribunal.

5. I am informed that there has been no activity even after the Consent Terms, in terms of actual commencement of the redevelopment as per the specific timelines agreed upon in the Consent Terms. Learned Counsel for the Petitioner-Society submits that he has instructions that arbitration would be invoked within the next one week. The limited prayer he makes at this stage is that the original documents demonstrating title to the property, which is currently in the possession of the Respondent-Developer without any work being done, must be secured.

6. In the aforesaid circumstances, purely to balance interests of the parties, taking into account that there had already been one round of arbitration culminating in a Consent Award, which too is yet to be complied with, it would be appropriate that the original documents, as prayed for in prayer (b) in the Petition, be deposited in the Registry of this Court no later than one week from the date on which this order is

uploaded on this Court's website.

7. To come up on ***February 24, 2025*** for further consideration under the caption "***For Final Hearing-Section 9***".

8. It is made clear that if an Application under Section 11 is made before such date, or if the parties agree upon the identity of the arbitration, they shall have liberty to mention the matter and move the proceedings to the arbitral tribunal.

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.]