
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

ARBITRATION PETITION NO. 119 OF 2024
WITH
INTERIM APPLICATION (LODG.) NO. 20487 OF 2023
IN
ARBITRATION PETITION NO. 119 OF 2024

Manmohan Kapani

...Petitioner

Versus

Kapani Resorts Pvt. Ltd. & 2 Ors.

...Respondents

Mr. Rohan Rajadhyaksha a/w. *Ms. Pallavi Singh, Shlok Chandra and Mr. Sankalp Sharma, for Petitioner.*

Respondents were represented but appearance has not been submitted.

Ms. Nandini Deshpande from the office of the Court Receiver, present.

CORAM : SOMASEKHAR SUNDARESAN, J.

Date : May 7, 2025

P. C.

1. This Petition came to be disposed of by a judgment dated March 18, 2025 directing Kapani Resorts, Virendra Kapani and Vaibhav Kapani to refund the share application money invested by the Petitioner Manmohan Kapani in lieu of which, equity shares have till date not been issued.

2. The cash flow from the share application money was utilized by the Respondents to repay their lenders and release assets mortgaged by the

Respondents to the lenders thereby enjoying the fruits of the investments made by the Petitioner Manmohan Kapani, a 90-year old man. The Petitioner has till date neither got his money back nor the shares, and no explanation was offered as to why shares were not allotted.

3. The judgement dated March 18, 2025, was carried in appeal before the Learned Division Bench, which, by a judgement dated April 25, 2025 dismissed the appeal and upheld the judgment dated March 18, 2025. Paragraphs 26(D) of the judgement dated March 18, 2025 would bear reproduction :-

If Kapani Resorts, Virendra and Vaibhav jointly or severally comply with the deposit as directed above, they shall have leave to approach this Court seeking removal of the restraint imposed on Virendra and Vaibhav in relation to alienating any interest in the Greater Kailash Property. Towards this end, Kapani Resorts, Virendra and Vaibhav are given leave to mention the matter before the Court showing evidence of having complied with the deposit, and upon consideration of the same, this Court would pass appropriate orders. If no such deposit is made, Manmohan shall have liberty to mention the matter and seek appointment of a Court Receiver in respect of all the properties of Kapani Resorts and the Greater Kailash Property.

4. Since no deposit has been made till date and liberty had been granted to mention the matter to seek appointment of the Court Receiver, the matter has been mentioned and is being heard today.

5. In view of the evident and admitted absence of repayment of the share application money and also a breach in payment of costs imposed, it would be necessary to direct that the Learned Court Receiver to take physical possession of the property located at 124, Block E, Greater Kailash Part-II, New Delhi ("***Greater Kailash Property***"), the residential property of Virendra Kapani and Vaibhav Kapani, which had been released from Small Industries Development Bank of India ("***SIDBI***"), using the funds provided by the Petitioner. Learned Court Receiver shall forthwith take appropriate action to attach these properties and take physical possession of the same and file a report for perusal of the Court, within a week of completing such action.

6. Within a week of the upload of this order on this Court's website, Kapani Resorts shall produce before the Learned Court Receiver (with a copy marked to Advocates for the Petitioner) a full schedule of assets on the books of Kapani Resorts since the other assets of Kapani Resorts too are liable to be attached in view of the judgement passed on the last occasion.

7. On a query from the Court as to whether even at this stage, the Respondents would be willing to proceed to arbitration, the response is that they would proceed to arbitration only if the Supreme Court eventually rules upon the Section 11 Application filed by the Petitioner. This attitude and

approach had been borne in mind when passing the earlier judgement and there is evidently no change in that approach.

8. List for further consideration on ***June 11, 2025***, on which date the report of the Learned Court Receiver shall be considered.

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.]