

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
ARBITRATION PETITION NO. 378 OF 2024

WITH

CONTEMPT PETITION IN COMM. DIVISION MATTERS NO.38 OF 2024

Kaveri Apartment Co-Operative Housing Society ...Petitioner
Ltd

Versus

Triveni Developers & Ors ...Respondents

Ms. Maneesha Patel, i/b Ankit Dhindale, for the Petitioner.

Appearance not received for Respondents.

CORAM : SOMASEKHAR SUNDARESAN, J.

DATE : JUNE 16, 2025

ORDER :

1. Yet again none appears for the Respondents, despite specific addresses of the Respondents having been provided and notices having been issued to them.

2. Learned Counsel for the Petitioner-Society points out that the matter has had a long legacy. In the first instance, by Consent Terms dated September 24, 2021, the parties arrived at a bargain to ensure that a redevelopment pursuant to a development agreement dated

December 26, 2014 would still be given a fair chance of being acted upon. Those Consent Terms came to be approved by a Learned Single Judge of this Court converting the undertakings set out therein into undertakings given to the Court.

3. On the face of it, it appears that there was no compliance whatsoever with the Consent Terms dated September 24, 2021. This led to a fresh invocation of disputes and differences between the parties, which eventually were again settled under a fresh set of Consent Terms, dated May 4, 2022, and that too after affidavits were filed in this Court by the Respondents specifically promising to perform the Consent Terms. These Consent Terms were again approved by another Learned Single Judge of this Court.

4. Till date there is no compliance with the Consent Terms and the undertakings given to the Court. On multiple occasions in the past, the Respondents did not appear and the Learned Advocate on record for the Respondents had also indicated inability to reach the client. Thereafter, a specific address of the Respondents was provided, for serving the Contempt Petition on them. Service has been effected and today yet again none appears for the Respondents.

5. In these circumstances, Learned Counsel for the Petitioner submits that it would only be appropriate to permit the Society to progress further and take up redevelopment of the project which has been stalled with just a couple of slabs having been put up on the site. All the members of the Society have been without their original homes since September 2014.

6. In these circumstances, having regard to the gross nature of the facts and the track record of the Respondents, it would only be appropriate to grant reliefs in terms of prayer clauses (a), (b) and (c) which read thus:-

a) That pending the hearing and final disposal of the arbitral proceedings to be commenced between the Petitioner and the Respondents, this Hon'ble Court by its order and injunction be pleased to restrain the Respondents, their agents, servants, hirelings or any person claiming through or under them from in any manner interfering with the redevelopment process to be undertaken by the Petitioner either by themselves or by appointing a developer by registering a fresh Development Agreement on all that piece and parcel of land bearing CTS No. 1141, Plot No.12, Survey No. 107, Hissa No. 4 (Pt) of Village Eksar, Tai. Borivali in the registration sub district of Mumbai Suburban, admeasuring approximately 936 sq. mtrs.;

b) That pending the hearing and final disposal of the arbitral proceedings to be commenced between the Petitioner and the Respondents, this Hon'ble Court by its order and injunction be

pleased to restrain the Respondents, their agents, servants, hirelings or any person claiming through or under them from creating any third-party rights in respect of land bearing CTS No. 1141, Plot No. 12, Survey No. 107, Hissa No. 4 (Pt) of Village Eksar, Tai. Borivali in the registration sub-district of Mumbai Suburban, admeasuring approximately 936 sq. mtrs. and the structure constructed thereon;

c) That pending the hearing and final disposal of the arbitral proceedings to be commenced between the Petitioner and the Respondents, this Hon'ble Court by its order and injunction be pleased to restrain the Respondents, their agents, servants, hirelings or any person claiming through or under them from entering upon the land bearing CTS No. 1141, Plot No. 12, Survey No. 107, Hissa No. 4 (Pt) of Village Eksar, Tai. Borivali in the registration sub-district of Mumbai Suburban, admeasuring approximately 936 sq. mtrs. or interfering with the possession of the Petitioner;

7. To make the grant of the aforesaid reliefs effective, it is made clear that the municipal authorities shall act upon this order being produced by the Petitioner as their authorization to take up the redevelopment. All requisite applications for necessary approvals for taking the redevelopment project forward by the Petitioner Society shall be entertained by the Municipal Corporation of Greater Mumbai upon an Application being made by the Society invoking, citing and enclosing a copy of this order.

8. Yet again, the Respondents are given one last chance to appear before this Court before taking up formal contempt proceedings against them. Registry to issue notice on the Respondents, returnable on ***July 7, 2025***. Let the Section 9 Petition and the Contempt Petition be listed on that date.

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.]