

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
ARBITRATION APPLICATION NO.248 OF 2024
WITH
ARBITRATION PETITION NO.345 OF 2024

Jessika Co-op. Hsg. Society Ltd.	...Applicant
Versus	
Vinayak Developers & Ors.	...Respondents

Mr. A.R. Shaikh *i/b. ASD, Advocates for Applicant.*

CORAM: SOMASEKHAR SUNDARESAN, J.

DATE : MARCH 26, 2025

PC :

1. This Application 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 April 9, 2012.

2. It is seen from the record that the arbitration agreement is indeed in existence. The Respondents have not bothered to reply to the invocation notice issued way back on May 16, 2024. Even in these proceedings, despite the *vakalatnama* none appears for the Respondent. Consequently, no useful purpose would be served in

keeping this Application pending any further in the docket of this Court.

3. Arbitration Petition No.345 of 2024 relates to the very same matter between the very same parties, seeking certain interlocutory protective reliefs. The Section 9 Petition shall be treated as an Application under Section 17 of the Act by the arbitral tribunal appointed hereby. Given the efflux of time, the Petitioner is at liberty to modify or mould the contents of Section 9 Petition for its consideration as a Section 17 Application.

4. In these circumstances, these proceedings (both, this Section 11 Application and the aforesaid Section 9 Petition) are hereby ***finally disposed of***, in terms of the following order :-

A] Justice S.J. Kathawalla, a 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 Agreement referred to above;

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215, Free Press Journal Marg,
Nariman Point,
Mumbai – 400 021.

Email ID :- skathawalla@gmail.com

B] A copy of this Order will be communicated to the Learned Sole Arbitrator by the Advocates for the Petitioner within a period of one week from today. The Petition 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.

5. 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.

6. 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.]