

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS COMMERCIAL DIVISION
COMMERCIAL ARBITRATION PETITION NO. 470 OF 2025

WITH

COMMERCIAL ARBITRATION APPLICATION NO. 212 OF 2025

Sureshkumar Omkarmal Khandelwal

...Petitioner

Versus

Adarsh Developers & Ors

...Respondents

Mr. Nishant Chothani, a/w Nivit Srivastava, Yash Chheda,
Bhavya Shah, i/b Manir Srivastava Associates, for the Petitioner.

Mr. Nishant Chothani, a/w Nivit Srivastava, Yash Chheda,
Bhavya Shah, i/b Manir Srivastava Associates, for Respondents.

CORAM : SOMASEKHAR SUNDARESAN, J.

DATE : JULY 21, 2025

ORDER :

1. These proceedings entail Section 9 as well as Section 11 under Arbitration and Conciliation Act, 1996 (“***the Act***”).

2. Learned Counsel for the parties have no quarrel with proceeding to arbitration forthwith stating the Section 9 Petition is an Application under Section 17 of the Act. The parties also have consensus on proceeding before a Sole Arbitrator instead of a three member arbitral tribunal.

3. In these circumstances, both the Section 9 Petition and Section 11 Application are finally disposed of by converting Section 9 Petition into an Application under Section 17 of the Act, and constituting an arbitrator in the following terms

A) Justice (Retd.) Mr. Anil Kumar Menon, 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;

Office Address:-

Office 4 & 5, Yashwant Chambers,
3rd Floor, 18/B, Burjorji Bharucha Marg,
Fort, Mumbai – 400 023

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 the date of upload of this order. The Petitioner 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.

4. The parties shall be at liberty to update the pleadings already filed under Section 9 to bring it upto speed with any factual developments since the time it was filed.

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.]