

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
COMMERCIAL ARBITRATION PETITION NO. 219 OF 2024

Malad Shantinath Co-operative Housing Society
Ltd.

...Petitioner

Versus

Dilip Narayan Joshi

...Respondent

AND

COMMERCIAL ARBITRATION PETITION NO. 456 OF 2024

AND

COMMERCIAL ARBITRATION PETITION NO. 747 OF 2024

Mr. Tushar Gujjar, a/w Deepak Singh, Krina Kothri, i/b SL Partners, for the Applicant & for Petitioner in CARBP/456/24 & 747/24 & for Applicant in CARAP/219/2024.

Mr. Sarosh Bharucha, a/w Janakraj Vakil, Hetal Vakil, for Respondent Nos.11 & 12 in CARBP/219/2024 & for Respondent Nos.3 & 4 in CARBP/747/2024 & for Respondent Nos.10 & 11 in CARBP/456/2024.

CORAM : SOMASEKHAR SUNDARESAN, J.

DATE : JANUARY 15, 2025

PC :

1. These Petitions invoking Section 9 of the Arbitration and Conciliation Act, 1996 (“***the Act***”) are filed by a Co-operative Society, which is party to an arbitration agreement with a Developer, namely, Sahakar Infracon Projects Private Ltd.-Respondent No.11. In a nutshell,

the relief sought in these three Petitions relate to seeking the vacation of three flats, namely, Flat No.A12 (belonging to the Trivedi family), Flat No.B20 (belonging to Joshi family) and Flat No.B25 (belonging to Soni family). Members of the aforesaid three families are the respective Respondents in these Petitions.

2. One of the grounds of opposition adopted by the Respondents in the Petition filed in respect of Flat No.B20, is that there is no arbitration agreement between the Society and its members, for the Society to have access to the jurisdiction of Section 9 of the Act.

3. Be that as it may, the Developer in question, namely, Sahakar Infracon Projects Private Ltd., who is also a Respondent in all these three Petitions, submits that a Petition under Section 9 of the Act has been filed by the Developer himself in a composite manner in respect of all the aforesaid three flats. Mr. Bharucha, Learned Counsel on behalf of the Developer submits that the Petition filed under Section 9 of the Act is Commercial Arbitration Petition (L) No.992 of 2025, which is not listed today.

4. It is seen from the submissions made by Mr. Bharucha today, that in respect of Flat No.B20 and B25, there does not appear to be any

opposition, in principle, for the redevelopment, but the members of the family have *inter se* disputes, as to who would be entitled to the benefits flowing from the ownership of these two flats, and thereby, to the entitlements flowing pursuant to the redevelopment of the building. However, as regards Flat No.A12, the Trivedi family is opposed to the redevelopment, and therefore are a dissenting minority, who cannot hold up the remaining 24 members of the Society from getting the benefits of redevelopment.

5. Considering that the Court has invested a significant amount of time today in appreciating the facts in relation to these three Petitions, these matters shall be treated as part-heard, and shall come up along with Commercial Arbitration Petition (L) No.992 of 2025 on January 23, 2025, under the caption “Part Heard Matters”. It is made clear that on that date all the four Petitions shall be considered for final hearing and disposal.

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.]

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