

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
COMMERCIAL ARBITRATION PETITION NO. 813 OF 2024

Excel Enterprises Realty LLP

...Petitioner

Versus

Sharmila S Amin & Ors

...Respondents

Mr. Sarosh Bharucha, a/w Tushar Gujjar, Deepak Singh, Krina Kothri, i/b SL Partners, for the Petitioner.

Mr. Rathore Sunil Kumar, for Respondent No.24.

Mr. Afsar Ansari, i/b Yusuf Khan, for Respondent No.26.

Mr. Aditya Vijay Sawant, h/f Balasaheb Deshmukh, for Respondent No.26.

Mr. J.S. Kini, a/w Aum Kini, i/b Sapna Krishnappa, for Respondent No.27.

CORAM : SOMASEKHAR SUNDARESAN, J.

DATE : JANUARY 15, 2025

PC :

1. This is a Petition under Section 9 of the Arbitration and Conciliation Act, 1996 ("***the Act***") filed by the Petitioner, who is a Developer and has executed a Development Agreement with Kher Nagar Sai Krupa Co-operative Housing Society Ltd. (Respondent No.27), in respect of redevelopment of a building by the name, Kher Nagar Sai Krupa.

2. The Society has 60 members, out of which, 55 members have signed the development agreement, registered on March 21, 2022. Mr. Bharucha, Learned Counsel on behalf of the Petitioner submits that the five members who have not signed the development agreement are a dissenting minority, and they have opted out of further participation in the process. However, even among the 55 members who have signed the development agreement, he submits that a few are holding out against signing the Permanent Alternate Accommodation Agreement (“**PAAA**”).

3. It is understood that drafts of the PAAA containing identical terms have been circulated to all members. It is his submission that 34 such members have signed the same, and they have also vacated their premises, while the remaining 21 (out of 55 members who have signed the development agreement) are refraining from executing the PAAA.

4. Learned Counsel for one of the Respondents, (Respondent No.24) submits that it is the Society that is not co-operating with him, which has led to the delay in signing of the PAAA. Learned Counsel for the Society, in Turn, submits that fresh demands have been made, which has led to the delay in signing the PAAA. Without intending to comment on the veracity or merits of any party’s contention, purely to enable these Respondents to address the Court, in particular, those who

have not signed the development agreement, as also those who have not signed the PAAA despite signing the development agreement, stand over to ***January 29, 2025***.

5. Learned Counsel for the Petitioner submits that the Advocates for the Petitioner shall once again serve on each of these dissenting or non-signing members, a copy of this Petition, to enable the Learned Counsel for the respective Respondents to take instructions and address the Court on the next date. Meanwhile, the parties are obviously free to engage with each other in the spirit of co-operation, considering that its a Co-operative Housing Society, and resolve their disputes by making appropriate information accessible. It is noted that since a majority of the members have also signed the PAAA containing identical terms, absent any material deviation in any particular draft given to any member, there ought not to be a difference of opinion in executing such PAAA.

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.]