

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
INTERIM APPLICATION (L) NO. 16110 OF 2025
IN
ARBITRATION PETITION NO. 143 OF 2025
WITH
ARBITRATION PETITION NO. 143 OF 2025**

IDBI Bank Limited Amboli Branch ...Applicant

In The Matter Between

Vraj BVG Infrashelters LLP ...Petitioner

Versus

Nikunj Cooperative Housing Society Ltd. & Ors ...Respondents

Mr. Amir Arsiwala, a/w Monika Tanna, Dhara Modi, Harkirat Kaur, i/b Singhania Legal Services, for the Applicant.

Mr. Anshuk Dawar, a/w Manisha Desai, i/b M/s M.P. Vashi & Associates, for Petitioner in ARBP/143/2025.

Mr. Kartik Vig, i/b Swapna Khemdapure, for Respondent No.1.

CORAM : SOMASEKHAR SUNDARESAN, J.

DATE : MAY 28, 2025

(VACATION COURT)

PC :

1. Having heard the parties for some time, I am of the view that it is not necessary to pass any order at this stage.

2. Learned Counsel for IDBI initially sought a recall of the order dated April 25, 2025 on the premise that the Society had decided not to hand over the property for development. However, it is found that the resolution in this regard relied upon by the Learned Counsel for IDBI is dated May 11, 2025 – evidently a development subsequent to the order sought to be recalled. A subsequent development can be no basis for recalling an order. IDBI is at liberty to seek advise on what to do to assert its rights, if any are perceived from subsequent developments.

3. Another objection of Learned Counsel for IDBI is that there is no *vakalatnama* filed on behalf of the Society and since appearance of Counsel on behalf of the Society is not found in the order, it should be presumed that none represented for the Society. On the other hand, another praecipe has been moved to record the appearance of a Learned Counsel on behalf of the Society, who had been represented on the last occasion.

4. This Court has repeatedly informed the bar that provision of appearances is not something that would hold up conduct of the proceedings in this Court and the upload of orders passed in them. If the appearances in terms of the stipulated procedure are not received, the Court would not hold up justice delivery. If Learned Counsel for the

parties who appeared did not give their appearance in time in the stipulated process, their appearance would not have been recorded.

5. In any case, it is not for IDBI to argue that the Society was not represented. The submission by IDBI that the Society was unrepresented is strongly contested by Mr. Kartik Vig, who submits that *vakalatnama* had indeed been filed on behalf of the Society and their appearance also been forwarded for the last hearing. Counsel had indeed appeared on the last occasion and made submissions on behalf of the Society.

6. In these circumstances, considering that the Society appears to have changed its mind about the redevelopment after the last order and considering that some individuals claiming to be office bearers are in Court today stating that they have lost confidence in their earlier lawyers, it would be totally inappropriate for any party to seek to draw this Court sitting in vacation into advice on how to change lawyers or to legitimately change their mind.

7. If the order records submissions made by the Counsel on behalf of a party, it would naturally follow that that Counsel had entered appearance and that represented a party. If the Society is of the view

that they had not briefed a certain Counsel who had appeared for them, it is for them to take such action against such Advocates as advised in accordance with law. Therefore, no interference is called for with the order in question at this stage sitting in Vacation, and the parties may act as advised. Should the parties be advised to file and pursue any application in accordance with law, that would be considered as and when the Court is presented with it.

8. 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.]