
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
ARBITRATION PETITION NO. 372 OF 2025
WITH
ARBITRATION APPLICATION (L) NO. 26130 OF 2025

Notan Residency Private Limited ...Petitioner

Versus

Juhu Neptune Apartment Co-Operative Housing ...Respondents
Society Ltd & Ors

Mr. Sean Wassoodew, for the Petitioner.

Ms. Ashna Shah for Respondent No.1.

Mr. Vijaya Ingule, a/w Rupesh Mandhare for Respondent Nos.2 to 4.

Mr. Suresh R. Padwal, a/w Dhanashree S. Padwal, for Respondent Nos.5 & 6.

Mr. Aditya Mehta, Counsel, i/b Dastur Kalambi & Associates for Respondent No.7.

CORAM : SOMASEKHAR SUNDARESAN, J.

DATE : AUGUST 22, 2025

ORDER :

1. This is a Petition under Section 9 filed in connection with a redevelopment of a property situated in Juhu, described in grater detail in the Petition.

2. The Petitioner, namely, Notan Residency Private Limited (“**Developer**”) and Respondent No.1, Juhu Neptune Apartment Co-

Operative Housing Society Limited (“**Society**”) executed a Development Agreement dated November 19, 2024 (“**Development Agreement**”) under which members of the Society would get, among others, additional area of 30%, hardship compensation at Rs.2,300/- per sq.ft., rental compensation at the rate of Rs.135 per sq. ft. and other related benefits in accordance terms and conditions contracted between the parties.

3. The Society comprises 24 members, out of which 20 members have agreed to redevelopment of the property. Respondent Nos.2 to 6 had not given their consent for redevelopment at the time of filing of this Petition. The Intimation of Disapproval had been received by the Developer on June 2, 2025 and a notice to vacate was issued on the same date. The Society replied on June 12, 2025 intimating its inability to vacate owing to disputes among some of its members in connection with contested entitlement to certain flats due to which it was indicated that it would not be possible to vacate the premises.

4. The flats in question are four flats, namely, Flat Nos.4, 9, 10 and 11 (“**Subject Flats**”).

5. Respondent Nos.2, 3 and 4 are the members and owners of Flat No.4. The Petitioner has already executed Permanent Alternate

Accommodation Agreement (“**PAAA**”) dated June 6, 2025 in connection with Flat No.4. Respondent No.6 has claims as to ownership of Flat No.4, while Respondent No.7, Metal Box India Limited, claims tenancy rights in respect of Flat No.4.

6. Likewise, Respondent No.2, as a nominee of two deceased persons is shown as the flat holder of Flat No.9. Respondent No.5 has claims to ownership of Flat No.9 and this flat too is in the possession of Respondent No.7, Metal Box India Limited, claiming tenancy rights.

7. Respondent No.6 is also shown as the owner of Flat No.10 but is refusing to execute the PAAA by linking the claims to Flat No.4. Likewise, Respondent No.5 is shown as the owner of Flat No.11 but has not executed the PAAA by linking it to claims made Flat No.9.

8. In a nutshell, at the heart of the dispute, lie the two flats Flat Nos.4 and 9 with all contentions being centred around the claims made by the parties in relation to such flats. Flats No. 10 and 11 too are not being vacated but during the pendency of these proceedings the Respondents claiming entitlement to these flats have agreed to vacate them without prejudice to their claims and contentions in relation to the same in other forums.

9. In these circumstances, having examined the material on record and having heard the parties, the following order would balance competing interests of the parties, balance equities and would enable protecting the best interests of all the parties involved. Each of the following steps forms part of an integral interwoven bundle of adjustments to address the ends of justice and the best interests of all parties without prejudicing them in their respective positions in other litigation, whether underway or potential, among them:-

- i) Respondent Nos. 7 (in respect of Flat No.4 and Flat No 9), Respondent No.6 (in respect of Flat No.10) and Respondent No.5 (in respect of Flat No.11) (***“Respondents in Possession”***) shall vacate the respective Subject Flats, remove all their belongings, if any are kept in the Subject Flats, and hand over vacant possession of the Subject Flats to the Developer no later than 12:00 noon on ***September 5, 2025***. It is noted that Learned Counsel for the respective Respondents in relation to Flat No. 10 and Flat No. 11 have committed to vacate by August 26, 2025, but the aforesaid deadline is fixed as an outer limit;

ii) Should the Respondents in Possession fail to do so, the Learned Court Receiver shall be entitled to take physical possession of the Subject Flats at any time within a week thereafter, if necessary by force, with protection from the local police and hand over possession of the Subject Flats forthwith to the Developer for redevelopment. The Learned Court Receiver shall also take an inventory of any belongings contained in the Subject Flats and hand over the same for storage by the Petitioner, who shall then call upon the Respondents to have them collected within a period of one month of receipt of the belongings from the Learned Court Receiver, failing which such belongings may be disposed of;

iii) The Petitioner's advocates shall serve a copy of this Order on the local police station as also on the office of the Deputy Commissioner of Police in whose jurisdiction the property falls, for information and requisite planning for protection towards the forcible possession, should the need arise;

iv) The Petitioner, the Society and the Respondents in Possession who are members of the Society shall execute permanent alternate accommodation agreements and other related ancillary documentation evidencing the takeover of the Subject Flats and the entitlement to the redeveloped flats (“**PAAA Documentation**”) such that they accord *pari passu* treatment to the entitlements for the Subject Flats as compared with all other flats in the Society where this Court has not had to intervene to have them vacated. Any variations to the documentation may only be in respect of the identification of these flats and the proportionate and commensurate variations linked to their size, area and related features of these flats in line with the Development Agreement. It is clarified that the PAAA Documentation in respect of Flat No. 4 shall be executed with Respondents No. 2, 3 and 4, while in respect of Flat No. 9 shall be executed with Respondents No. 2. This shall not prejudice the claims to ownership being pursued by any other

Respondent to such Subject Flats;

v) The PAAA Documentation shall be executed within a period of three weeks from the upload of this order on the website of this Court. The Petitioner shall coordinate with the Respondents in Possession for scheduling appointments at the office of the relevant Registrar's office for execution of the PAAA Documentation;

vi) Should the Respondents in Possession fail or refuse to execute the PAAA Documentation by the aforesaid deadline, the Developer shall be entitled to approach the Learned Court Receiver within a period of one week after the aforesaid deadline, to execute such documentation on behalf of the Respondents in Possession, and demonstrate to the Learned Court Receiver that the terms of the PAAA Documentation are in conformity with the requirements stipulated above;

vii) Execution of the PAAA Documentation by the

Learned Court Receiver in respect of each of the Subject Flats would bind the Respondents in Possession as also any of the other Respondents who may have competing claims to entitlements to the Subject Flats;

viii) All amounts payable by the Developer under the Development Agreement and the PAAA Documentation in respect of displacement, and fending for new accommodation in respect of each of the Subject Flats such as payments towards transit accommodation rent, brokerage and displacement compensation shall be paid to the respective Respondents in Possession against free and vacant possession of the respective Subject Flat being handed over to the Developer. All other payments that are in the nature of a capital payment – say contribution towards the corpus fund of the Society in respect of Flat No 4 and Flat No. 9, shall be deposited with the Court Receiver to abide by the outcome in any litigation between Respondent No. 7 and the

Respondents who are the landlords of Respondent No. 7;

ix) Nothing contained in this Order including the direction to pay the amounts payable by the Developer under the Development Agreement and the PAAA Documentation to the Respondents in Possession shall affect or influence the *inter se* claims among the Respondents who have competing claims to entitlements relating to the respective Subject Flats. Their *inter se* disputes and differences shall be adjudicated in litigation, whether existing or to be initiated among them, uninfluenced by this order. The release of the amounts to the Respondents in Possession shall not be a pointer to any assessment of merits of the respective positions adopted by any of the Respondents in such other litigation involving claims to entitlement to the Subject Flats;

x) Such release of monies to the Respondents in Possession is being directed only because the cash flows arising out of the Development Agreement in

respect of the Subject Flats ought to be available to those residing in the flat to enable them to obtain alternative residential accommodation and to help them fend for their shelter pending redevelopment, as a matter of cash flow management and not as a matter of declaring legal entitlement;

- xi) Should possession have to be taken by force through the Court Receiver *or* should the execution of the PAAA Documentation have to be done through the Learned Court Receiver, the Developer shall hand over payment instruments in the name of the Respondents in Possession in respect of the respective Subject Flats to the Learned Court Receiver, with a detailed statement showing the working of the amounts due and payable in respect of each of the Subject Flats. Such payment instruments in the names of the respective Respondents in Possession shall be handed over to the Learned Court Receiver by the Developer at least one working day prior to the Developer being handed over possession of the

respective Subject Flat by the Learned Court Receiver. The Developer shall demonstrate to the satisfaction of the Learned Court Receiver, the accuracy of the computation of the amounts due and payable in respect of the Subject Flats. The Court Receiver shall hand over the payment instruments so received from the Developer to the Respondents in Possession. It is made clear that the receipt of such payments shall be without prejudice to the pursuit of claims to entitlements by other Respondents in other appropriate litigation.

10. The aforesaid framework is a purely meant to be an equitable adjustment in exercise of jurisdiction of this Court under Section 9 of the Act. With the aforesaid directions, this Petition is ***finally disposed of***.

11. 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.]