
IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

COMMERCIAL ARBITRATION PETITION NO.106 OF 2025

Hiruben Lalji Nandu

...Petitioner

Versus

Javed Abdul Kadar Shaikh

...Respondent

Mr. Shanay Shah a/w *Ms. Gargi Bhagwat i/b. M/s. Divekar Bhagwat & Co., Advocates for Petitioner.*

CORAM: SOMASEKHAR SUNDARESAN, J.

DATE : MAY 6, 2025

PC :

1. This is a Petition under Section 9 of the Arbitration and Conciliation Act, 1996 (*"the Act"*). The Petitioner is said to be entitled to two shops, namely, Shop No.2 and 2A, in lieu of which redeveloped premises aggregating to approximately 1200 sq.ft were indicated as his entitlement in terms of two Permanent Alternate Accommodation Agreements (*"PAAA"*) executed between the parties. The arbitration agreement is contained in Clause 29 in each of the agreements (Pages 64 and 83 of the Petition). Although such total area of entitlement is 1200 sq.ft., it now transpires that in a sanctioned plan, the two premises have been merged and the Petitioner is being given only 156 sq.ft.

Digitally
signed by
AARTI
GAJANAN
PALKAR
Date:
2025.06.05
13:02:34
+0530

2. When asked to explain the remarkable departure from the agreed position, Learned Counsel for the Respondent submits that the Petitioner carries a wrong impression and the Petitioner, in fact, is entitled to 800 sq.ft., since the Petitioner's family is entitled to three shops, the aggregate of which is 800 sq.ft., in lieu of which alternate premises have been contracted. Be that as it may, as regards the specific two shops in question covered by the two PAAAs for the 1200 square feet entitlement, Learned Counsel for the Respondent submits that 800 sq. ft. would be handed over and another 400 sq.ft. area would be earmarked and kept separate without creating any right, title or third party interest in the same, to abide by the outcome of the arbitral proceedings.

3. Learned Counsel for the Respondent submits that he has instructions to proceed to arbitration forthwith leaving it to the arbitrator to deal with all disputes and differences with parties.

4. With the aforesaid interlocutory arrangement, securing the interests of the Petitioner in the interregnum, and with the aforesaid commitment taken on record as an undertaking given to Court, the Section 9 Petition is hereby disposed of by converting it into a Section 17 application and also giving liberty to the parties to address the arbitral tribunal on the need for any variation, modification,

enhancement or reduction to the interlocutory arrangement directed hereby, without the need for an application under Section 11 of the Act.

5. The parties have recorded their consent under instructions, to proceed to arbitration before Mr. Simil Purohit, a Learned Senior Advocate of this Court.

6. The parties shall approach the Learned Sole Arbitrator no later than a week from the date on which this order is uploaded on the website of the Court seeking directions on how to proceed further.

7. 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.]