
**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS COMMERCIAL DIVISION
COMMERCIAL ARBITRATION PETITION NO. 597 OF 2025**

Atharva Rise ...Petitioner

Versus

Rajkumar Gyarsilal Varma & Ors. ...Respondents

Mr. Darshan Patankar, i/b Yogesh D. for the Petitioner.

**Mr. Gaurang Shah, a/w Sanjay Dubey, i/b Sanjay D. for
Respondent Nos.1 to 5.**

CORAM : SOMASEKHAR SUNDARESAN, J.

DATE : AUGUST 1, 2025

ORDER :

1. This Petition has been filed under Section 9 of the Arbitration and Conciliation Act, 1996 (***“the Act”***).

2. It is uncontroverted that the parties have privity to an arbitration agreement that is being validly executed. The Petitioner seeks an interlocutory protection in terms of prayer Clause (a) which is essentially to prohibit the Respondents from creating any third party rights over the subject property which had been agreed to be brought by the Petitioner from the Respondents.

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3. Mr. Gaurang Shah on behalf of Respondents No.1 and 5 has entered appearance and submits that he has instructions to state that third party rights already stand created over the subject property in view of the contract not having been performed by the Petitioner.

4. In these circumstances, it would be appropriate to refer the parties to arbitration straight away, on which there is no quarrel between the parties. This Petition filed under Section 9 of the Act is hereby disposed of converting it into an application under Section 17 of the Act for due consideration by the Learned Arbitral Tribunal constituted hereby. The Learned Arbitral Tribunal shall examine the competing claims by the parties and decide upon an appropriate interlocutory arrangement in order to preserve the subject matter of the arbitration agreement. A reply to this Petition shall be filed within a period of one week from the upload of this order.

5. Taking on board the consent of the parties to proceed to arbitration, without the need for an application under Section 11 of the Act, an arbitral tribunal is hereby constituted in the following terms:-

A) Mr. Vishwajeet Kapse, an advocate of this Court, is hereby appointed as the Sole Arbitrator to adjudicate upon the disputes and differences between the parties

arising out of and in connection with the Agreement referred to above;

Office Address:- Chamber No.5, Ground Floor,
Bombay Mutual Chambers,
Ambalal Doshi Marg,
Fort, Mumbai – 400 001

Email ID: vskapseoffice@gmail.com

B) A copy of this Order will be communicated to the Learned Sole Arbitrator by the Advocates for the Petitioner/Applicant within a period of one week from the date of upload of this order. The Petitioner/Applicant shall provide the contact and communication particulars of the parties to the Arbitral Tribunal along with a copy of this Order;

C) The Learned Sole Arbitrator is requested to forward the statutory Statement of Disclosure under Section 11(8) read with Section 12(1) of the Act to the parties within a period of two weeks from receipt of a copy of this Order;

D) The parties shall appear before the Learned Sole

Arbitrator on such date and at such place as indicated, to obtain appropriate directions with regard to conduct of the arbitration including fixing a schedule for pleadings, examination of witnesses, if any, schedule of hearings etc. At such meeting, the parties shall provide a valid and functional email address along with mobile and landline numbers of the respective Advocates of the parties to the Arbitral Tribunal. Communications to such email addresses shall constitute valid service of correspondence in connection with the arbitration;

E) All arbitral costs and fees of the Arbitral Tribunal shall be borne by the parties equally in the first instance, and shall be subject to any final Award that may be passed by the Tribunal in relation to costs.

6. In these circumstances, the Learned Arbitral Tribunal is requested to convene at the earliest, preferably within a week of being approached, to issue further directions in the matter.

7. The captioned petition is *finally disposed of*.

8. Needless to say, nothing contained in this order is an expression of an opinion on the merits of the matter or the relative strength of the parties. All issues on merits are expressly kept open to be agitated before the arbitral tribunal appointed hereby.

9. 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.]