

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN IT'S COMMERCIAL DIVISION

INTERIM APPLICATION NO. 4340 OF 2025
IN
COMMERCIAL ARBITRATION PETITION (L) NO. 8479 OF 2025

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Alag Property Constructions Pvt. Ltd.

....Applicant

In the matter between :

Alag Property Constructions Pvt. Ltd.

....Petitioner

Versus

Santosh Apartment Co operative

Housing Society Limited

...Respondent

Mr. Alankar Kirpekar *i/b Mr. Sanjay P. Shinde, for Applicant/
Petitioner*

Mr. Bhavik Manek *a/w. Sagar Amrut Rane, Advocates for
Respondent.*

CORAM: SOMASEKHAR SUNDARESAN, J.

Date : September 3, 2025

ORDER :

1. Having heard the parties, it is seen that the primary ground of seeking condonation of delay is the ill health of two directors of the Petitioner. It is seen from the reply and the rejoinder that the two directors who are father and son have both undergone various treatments for ailment. The father is said to be undergoing heart problems while the son is said to be a cancer patient. The bone marrow

transplant of the son, which took place between May and June 2024 is cited as the basis for condonation of delay.

2. *Prima facie*, it is seen that order under Section 9 of the Act was passed on July 24, 2024, while the impugned order under Section 17 of the Act granting further reliefs was passed on August 22, 2024. Meanwhile, in execution proceedings, the handing over of the title documents have been complied on July 24, 2025. A primary grievance of the Petitioner in pursuing these proceedings is the direction to pay the arrears of transit rent which has also been directed in the Impugned Order.

3. In the affidavit in reply, the Respondents have indicated that the grounds taken in the interim applications seeking condonation of delays are specious and that both the directors have been fit enough for holiday and travel in international locations. There is a blanket denial of the same in an affidavit in rejoinder. Consequently, the Learned Counsel for the Respondent has tendered a compilation of seven photographs with time stamps on them indicating contemporaneous activity on the part of the two directors which could reasonably lead to a conclusion that they were not unfit to pursue the challenge under Section 37 of the Act contemporaneous with the holidaying and physical activity demonstrable from their social media accounts. The

compilation of photographs is marked “X” for identification and taken on record.

4. Liberty was given to the Petitioner to file an affidavit specifically by Mr. Pratik Somaiya, the director who is said to have been unable to give instructions in time to file an appeal explaining whether these photographs are inaccurate and as to how these statements affirmed on oath were made in the interim application. Let such affidavit be filed no later than *September 16, 2025*. Stand over to ***September 17, 2025***.

5. 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.]