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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
INTERIM APPLICATION NO.6267 OF 2025
IN
ARBITRATION PETITION (L) NO.25426 OF 2025

Mumtaz Ali Fakir Mohammed .. Applicant
Mansuri alias Mumtaz Ali Fakir
Mohammed Chanded

Versus

Nilofer Nahid Bhujwala .. Respondent

WITH

ARBITRATION PETITION (L) NO.25426 OF 2025

Nilofer Nahid Bhujwala .. Petitioner

Versus

Nehru Nagar Priya Darshan Co- .. Respondents
operative Housing Society Limited &
Ors.

...

Mr.Yazad Udwadia with Mr.Nitin Parkhe and Ms.Snehal Jagannath for the Applicant.

Mr.Anoshak Daver with Mr.Vijay Dhingreja i/b V.J.Juris for the Petitioner.

Mr.Viraj Parik with Mr.Jayesh Mestry for the Respondent Nos.1 to 4.

Mr.Hasmit Trivedi i/b Praxis Legal for the Respondent No.5.

CORAM: BHARATI DANGRE, J.

DATE : 20th NOVEMBER, 2025

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P.C:-

1. The present Petition, under Section 9 of the Arbitration and Conciliation Act, 1996, is filed by the Petitioner, member of Respondent No.1-society, who claim that she is allotted flat No.907 admeasuring 570 sq.ft. on the 9th floor of the Building No.37 and it is her claim that in the wake of this allotment, her late husband purchased an adjoining flat No.908 on the same floor.

Flat No.904 is allotted to the Intervenor.

2. A claim is also staked on flat No.907 by the intervenor, Mumtaz Ali Fakir Mohammed Mansuri, who has filed an intervention application in the pending proceedings. A relief is sought in Section 9 Petition that Respondent No.1-society shall be enjoined from interfering with, allotting, and/or creating any third party rights in respect of flat No.907.

3. On hearing Mr.Daver, learned counsel for the Petitioner, I have also heard learned counsel for the intervenor.

What emerges before me is a dispute between the two members of the society, their claims being staked against the society itself as regards the allotment of flat Nos.904 and 907, in the wake of the view expressed by the Division Bench of this Court in *Pranav Constructions Limited Vs. Priyadarshini Co-Operative Housing Society Ltd. & Ors. (Arbitration Appeal (L) No.20093 of 2025 dated 14th July, 2025)*, such a dispute does not deserve consideration in Section 9 Petition, but being a dispute between the members *inter se* or between the members and the society, they must approach the competent court i.e. Co-Operative Court under Section 91 of the Maharashtra Co-Operative Societies Act, 1960.

4. Being confronted with this situation, learned counsel for the Petitioner as well as the learned counsel for the intervenor are agreeable to an arrangement that they shall approach the competent court and seek appropriate orders restraining the society from dealing with flat No.904 in favour of the opposite party, but a request is made that for a period of four weeks, the society shall not hand over the possession of flat Nos.904 and 907 to either of the party.

The learned counsel for the society has no difficulty in this regard and he makes a categorical statement that society will keep flat Nos.904 and 907 intact, despite the OC having been obtained and shall not hand over the possession of these flats to either of the party, and shall abide by the directions, which shall be issued by the competent court, if at all any party approaches the Court.

5. It is clarified that since the society has made the statement as a good gesture in order to draw curtains on the dispute between the members *inter se*, it is clarified that none of them shall hold the society responsible for not handing over the possession in time, despite the OC having been obtained.

Similarly, no liability for delay in possession shall be fastened upon the Developer.

6. With the above clarification, Petition alongwith its pending Interim Application, stands disposed of.

(BHARATI DANGRE, J.)