

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

ARBITRATION APPLICATION NO. 2 OF 2026

Salima Zafaralam Taji & Anr.

...Applicants.

V/s.

M/s. Ashirwad Build Home Private Limited.

...Respondent.

Mr. Vivek Punjabi a/w. Mr. Pratik Irpatgire and Mr. Sahil Panjwani, Advocate
for Applicants.

Mr. Prathmesh Seth and Mr. Hitesh Kalbate, Advocate for Respondent.

Ms. Salima Zafaralam Taji, Applicant No. 1 is present in the Court.

CORAM: GAUTAM A. ANKHAD, J.

DATED: 27 APRIL 2026.

P.C.:

1) This Application is filed under Section 11 of the Arbitration and Conciliation Act, 1996 (“Act”) seeking appointment of a sole Arbitrator in terms of the arbitration clause contained in the Permanent Alternate Accommodation Agreement dated 10th November 2015 (“PAAA”) executed between the Applicants’ predecessor-in-title and the Respondent–Developer. The disputes arises in relation to the Applicants’ entitlement to the flat under the PAAA and the rental / corpus amounts that are already deposited in this Court by the Respondent.

2) It is the Applicants’ case that by virtue of a registered Gift Deed dated 15th December 2016 executed by their deceased mother, they alone,
Talwalkar

to the exclusion of the other siblings, are entitled to all rights and benefits under the PAAA, including rent, corpus, and possession of the redeveloped flat.

3) I am conscious that the scope of examination under Section 11 is confined to a *prima facie* determination of the existence of an arbitration agreement and whether the disputes are arbitrable. Ordinarily, once these jurisdictional requirements are satisfied, the parties ought to be referred to arbitration, leaving all issues on merits to be adjudicated by the Tribunal. However, after the matter was argued for some time, I find that the disputes can be resolved without reference to arbitration as per the consensus arrived at between the parties in Court.

4) Though there is some background to the matter, it is not necessary to advert to the same in detail. The redevelopment of the building now stands completed. A dispute had arisen in relation to the identification of the flat to be handed over, the Applicants having claimed flat no. 104, whereas the Respondent offered flat no. 204. The Respondent had deposited the monthly compensation amounts payable to the Applicants in this Court. These issues were the subject matter of earlier proceedings under Section 9 of the Act.

5) Mr. Seth, learned counsel for the Respondent submits that the Respondent is ready and willing to forthwith hand over possession of flat

no. 204, situated on the 2nd floor of Santacruz Summer Queen Co-operative Society, along with all necessary documents to the Court Receiver in terms of order dated 6th August 2025 passed in Arbitration Petition No. 271 of 2021. He further submits that any dispute, if at all, is *inter se* between the Applicants and their siblings; and the Respondent ought not to be held liable for any such competing claims. Mr. Punjabi, learned counsel for the Applicants, on instructions, submits that the Applicants are willing to accept possession of flat no. 204 in lieu of flat no. 104. He further submits that the amounts deposited in this Court be released to the Applicants in view of the registered Gift Deed executed in their favour.

6) I find that the parties have arrived at a consensual arrangement and the substratum of the disputes sought to be referred to arbitration no longer survives. Accordingly, with the consent of the parties, Arbitration Application No.2 of 2026 is disposed of in the following terms:

- (i) The Respondent shall hand over physical possession of flat no. 204, situated on the 2nd floor in Santacruz Summer Queen Co-operative Society, 2nd Hasnabad Lane, Santacruz, Mumbai 400054, along with all necessary documents, to the Court Receiver within a period of two weeks from today, in terms of paragraph 5 of the order dated 6th August 2025 passed in Arbitration Petition No. 271 of 2021.
- (ii) The Applicants shall apply in writing to the Court Receiver for release of flat no. 204 and all documents in their favour. Upon such

application, the Court Receiver shall forthwith hand over possession of the flat and the documents to the Applicants. It is clarified that the Court Receiver shall not entertain any competing claims by the siblings of the Applicants. Any such person, who claims a competing interest to the said flat is at liberty to pursue appropriate civil proceedings in accordance with law.

- (iii) The Prothonotary and Senior Master shall release the amounts deposited by the Respondent in this Court along with accrued interest, and after deduction of applicable charges, in favour of the Applicants within a period of two weeks from today.
- (iv) Applicant No. 1, who is present in Court, undertakes on behalf of the Applicants that upon receipt of possession of the flat and the amounts, the Applicants shall not initiate any proceedings against the Respondent. It is clarified that the Respondent shall not be liable for any competing claims raised by the siblings of the Applicants.
- (v) The costs, charges, and expenses of the Court Receiver shall be borne by the Applicants.

[GAUTAM A. ANKHAD, J.]