

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
ARBITRATION APPLICATION NO. 293 OF 2025

Ajit Patel

... Applicant

V/s.

HPG Community Pvt. Ltd.

...Respondent

Mr. Darryl Pereira with Ms. Beverly Fernandes, for the Applicant

Ms. Delnavaz Patel with Ms. Shriya Nalawade i/b. Trilegal, for the Respondent.

CORAM: SANDEEP V. MARNE, J.

DATED: 6 May 2026.

P.C.:

1) This is an application under Section 11 of the Arbitration and Conciliation Act, 1996 (**Arbitration Act**) for adjudication of disputes and differences between the parties arising out of the concerned Agreement for Sale.

2) I have heard Mr. Pereira, the learned counsel appearing for the Applicant and Ms. Patel, learned counsel appearing for the Respondent. Ms. Patel objects to the maintainability of the application

by inviting the attention of the Court to the plaint filed in L.C. Suit No. 2020 of 2025 before the City Civil Court.

3) She submits that the Applicant has already raised grievances relating to concerned terrace in the pending Suit to which not only Respondent No.1, but also Evita Co-operative Housing Society Limited, has been impleaded as Defendant. On the other hand, Mr. Pereira submits that the Suit is filed for the limited purpose of challenging notice issued by Municipal Corporation for Greater Mumbai (MCGM) in respect of the staircase structure. He submits that the concerned structure is constructed by the Respondent-Developer. He submits that the Respondent-Developer has sold the flat together with terrace and has constructed the staircase for approaching the terrace.

4) In my view, it appears that the cause of action sought to be raised in pending Suit is entirely different than the claim which the Applicant seeks to raise against the Respondent in arbitration. The cause of action for filing suit is issuance of notice dated 6 March 2025 by MCGM under Section 53(1) of the Maharashtra Regional Town Planning Act, 1966. As against this, which the Applicant seeks to raise disputes against the Respondent-Developer in respect of the terrace in question as the Respondent has now denied having sold the terrace to the Applicant. Pending Suit has no relation to the claim of Applicant against Respondent to recover amounts in respect of the terrace. The suit is required to be filed to injunct the MCGM from acting in pursuance of Section 53 Notice. MCGM is not a party to arbitration agreement. The Suit arises out of performance of statutory and regulatory functions

by MCGM whereas the arbitration would be qua contractual relations between Applicant and Respondent. In my view, since existence of arbitration agreement is not disputed, this Court is left with no option but to make a reference in respect of the disputes between the parties. All objections of the Respondent can be considered and decided by the Arbitral Tribunal. Therefore, it would be just and proper to constitute Arbitral Tribunal comprising of a sole Arbitrator. I accordingly proceed to pass the following order :

(A) Ms. Priyanka Kothari, an Advocate of this Court is hereby appointed as sole Arbitrator to adjudicate upon the disputes and differences between the parties arising out of an Franchise Agreement referred to above. The contact details of the Arbitrator are as under :

Office Address :- G-1, Ground Floor, Mittal Avenue,
Nagindas Master Road, Fort, Mumbai-400
023.

Email ID :- law.priyanka @gmail.com

Mobile No.:- 98196 55969

(B) A copy of this order be communicated to the learned sole Arbitrator by the Advocates for the Petitioner within a period of one week from the date of upload of this order. The Applicant shall provide the contact and communication particulars of the parties to the Arbitral Tribunal alongwith 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 2 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 by him, to obtain appropriate direction 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 alongwith mobile and landline numbers of the respective Advocates of the parties to the Arbitral Tribunal. Communication to such email addresses shall constitute valid service of correspondence in connection with the arbitration.

(F) The sole Arbitrator shall be entitled to the fees prescribed under the Bombay High Court (Fee Payable to Arbitrators) Rules, 2018 and the arbitral costs and fees of the Arbitrator shall be borne by the parties in equal proportion and shall be subject to the final Award that may be passed by the Tribunal

5) All issues on merits are expressly kept open to be agitated before the Arbitral Tribunal appointed as above.

6) With the above directions, the Arbitration Application is allowed and **disposed of**.

NEETA
SHAILESH
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NEETA SHAILESH
SAWANT
Date: 2026.05.07
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[SANDEEP V. MARNE, J.]