



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
ARBITRATION APPLICATION NO.485 OF 2025

Shahe Alam Shamsi & Anr.

...Applicants

V/s.

The Landlord/Developer
Mis. Bomanji Dhunjibhoy Pvt. Ltd. &
Another.

...Respondents

Mr. M.S. Ansari *for the Applicant.*

Mr. Anil Anand Rao *for Respondent Nos.1 and 2.*

CORAM: SANDEEP V. MARNE, J.

DATED: 22 JANUARY 2026.

P.C.:

1) This is an Application filed under Section 11 of the Arbitration and Conciliation Act, 1996 for appointment of Arbitrator for adjudication of disputes and differences between the parties arising out of Agreement for Permanent Alternate Accommodation dated 22 August 2007.

2) I have heard Mr. Ansari, the learned counsel appearing for the Applicants and Mr. Rao, the learned counsel appearing for Respondent Nos.1 and 2.

3) Perusal of the Agreement dated 22 August 2007 indicates that there is a clear agreement between the parties for resolution of disputes by the arbitration in clause 26.

4) Mr. Rao, submits that the contract is frustrated on account of impossibility to develop the property due to Defence related restrictions.

5) In my view, this would be an issue on merits, which cannot be decided in reference proceedings. He also raises the issue of limitation, which in my view can be contested by the parties before the Arbitral Tribunal. In my view therefore, the Arbitral Tribunal needs to be constituted in view of the express agreement between the parties for adjudication of disputes through arbitration.

6) Accordingly, I proceed to pass the following order:-

(A) Ms. Spenta Kapadia, an Advocate of this Court is appointed as Sole Arbitrator to adjudicate upon the disputes and differences between the parties arising out of Agreement for Permanent Alternate Accommodation dated 22 August 2007. The contact details of the Arbitrator are as under :

Office Address :- 29/29A, Alli Chambers, Tamarind Lane, Fort, Mumbai- 400 001

Email id :- spentahavewala@gmail.com

(B) A copy of this order be communicated to the learned sole Arbitrator by the Advocates for the Applicant within a period of one week from the date of uploading 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 her, 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.

(E) The fees of the sole Arbitrator shall be as 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 portion and shall be subject to the final Award that may be passed by the Tribunal.

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

8) With the above directions, the application is **disposed of**.

[SANDEEP V. MARNE, J.]