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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
INTERIM APPLICATION NO. 7090 OF 2025
IN
COMMERCIAL ARBITRATION PETITION (L.) NO. 18200 OF 2025**

Aarti Gunjekar

.....APPLICANT

IN THE MATTER BETWEEN :

L.N. Realtors and Developers LLP

....PETITIONER

: VERSUS :

1. Prakash Dwarkadas Lulla & Ors.

....RESPONDENTS

Mr. Anoshak Daver with Mr. Dev S. Tejnani i/b. Mr. Manoj K. Bhatia
for the Original Petitioner.

Ms. Aarti Gunjekar, Applicant in person in IA-7090-2025 present.

Mr. Ashok B. Satpute, for Respondent No.3.

CORAM : SANDEEP V. MARNE, J.

DATED : 9 JANUARY 2026.

P.C :

1) This application is filed by the Applicant in a disposed of petition which was filed by original Petitioner-Developer under Section 9 of the Arbitration and Conciliation Act, 1996 (**Arbitration Act**). In her Application, Applicant has sought following prayers :

In view of the above mentioned documents and circumstances we pray this hon'ble Court to grant us

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- a. Entitlement for 180 sq.ft garage in our PAA, DA with 28% entitlement, rent and corpus on it as per plan and same be mentioned in PAA & in DA.
 - b. Penalty for demolition of our garage and on 18/9/25 by misuse of your order and penalty delay in handing entitlement of garage after vacating flat on 30/9/2025.
 - c. Grant Compensation as existing flat owners of 10 sq.m under Sec. 33(7)(B) of DPCR 2034 and 35% extra area
 - d. To grant us flat above 8 floors in building.
 - e. Any other relief the Court deems fit.

2) The Commercial Arbitration Petition (L) No. 18200 of 2025 has been disposed of by order dated 11 September 2025, which reads thus:

1. The only issue raised by the Respondents that is worthy of consideration is whether the terrace area of Flat Nos.10 & 11 admeasuring 425 sq.ft. each or 425 sq.ft. aggregate. A table at Page No.79 explicitly records in the Development Agreement that for the two flats, the area is 850 sq.ft. Likewise, Clause 8.3 explicitly records that the area of the attached terraces to the two flats measures 425 sq.ft. of carpet area. The dispute significantly relates to the entitlements on such area.
2. In contrast, Learned Counsel for the Petitioner would submit that the two references to the terrace area admeasuring 425 sq.ft each are errors and that the accurate recording is contained in the Schedule to the Development Agreement which records that the two terrace collectively admeasure 425 sq.ft. where the reference is to both the flats (Page 114).
3. It would be appropriate to have the specific factual status ascertained so that this matter can be put to rest.
4. The Registry is requested to depute an Officer of this Court to accompany the Petitioner, the Society and the two owners of Flat Nos.10 and 11 along with an Architect at the cost of the Petitioner and the Society to ascertain the precise area and file a report with this Court. Such report shall be filed no later than September 16, 2025.

5. Meanwhile, subject to this facet of the matter being factually ascertained, it would be inappropriate to hold up the redevelopment any further.

6. Ms Gunjekar also submits that she is now fully entitled to one more garage and another Learned Single Judge of this Court has recently ruled in Writ Petition No.3466 of 2025, by an order dated July 21, 2025 in a manner that would entitle her to one more garage. Therefore, she would submit, her entitlements under the redevelopment should be computed on the basis of the said order. Should such entitlements be available in law, needless to say, Ms Gunjekar would be entitled to the corresponding area in the redevelopment. Nothing in this submission can hold up the commencement of the redevelopment.

7. In these circumstances, balancing all equities and adjusting for the parties their respective positions, without eroding their contentions of the respective entitlements, the following order is passed :-

(A) Respondent No.1 (in respect of Flat No.10) and Respondent No.2 (in respect of Flat No.11) ("Respondents in Possession") shall vacate the aforesaid flats ("Subject Flats"), remove all their belongings kept in the Subject Flats, and hand over vacant possession of the Subject Flats to the Developer no later than 12:00 noon on September 30, 2025;

(B) Should the Respondents in Possession fail to do so, the Learned Court Receiver shall be entitled to take physical possession of the Subject Flats at any time within a week thereafter, if necessary by force, with protection from the local police and hand over possession of the Subject Flats forthwith to the Developer for redevelopment. The Learned Court Receiver shall also take an inventory of any belongings contained in the Subject Flats and hand over the same for storage by the Petitioner, who shall then call upon the Respondents to have them collected within a period of one month of receipt of the belongings from the Learned Court Receiver, failing which such belongings may be disposed of;

(C) The local police station shall provide all necessary assistance to the Learned Court Receiver for taking possession as above. The Petitioner's advocates shall serve a copy of this Order on the local police station as also on the office of the Deputy Commissioner of Police in whose jurisdiction the property falls, for information and requisite planning for the forcible possession, should the need arise;

(D) The Petitioner, the Society and the Respondents in Possession shall execute permanent alternate accommodation agreements and other related ancillary documentation evidencing the takeover of the Subject Flats and the entitlement to the redeveloped flats ("PAAA Documentation") such that they accord pari passu treatment to the entitlements for the Subject Flats as compared with all other flats in the Society where this Court has not had to intervene to have them vacated. Any variations to the documentation may only be in respect of the identification of these flats and the proportionate and commensurate variations linked to their size, area and related features of these flats in line with the Development Agreement;

(E) The PAAA Documentation shall be executed within a period of three weeks from the upload of this order on the website of this Court. The Petitioner shall coordinate with the Respondents in Possession for scheduling appointments at the office of the relevant Registrar's office for execution of the PAAA Documentation;

(F) Should the Respondents in Possession fail or refuse to execute the PAAA Documentation by the aforesaid deadline, the Developer shall be entitled to approach the Learned Court Receiver within a period of one week after the aforesaid deadline, to execute such documentation on behalf of the Respondents in Possession, and demonstrate to the Learned Court Receiver that the terms of the PAAA Documentation are in conformity with the requirements stipulated above;

(G) Execution of the PAAA Documentation by the Learned Court Receiver in respect of each of the Subject Flats would bind the Respondents in Possession as also any of the other Respondents who may have competing claims to entitlements to the Subject Flats;

(H) All amounts payable by the Developer under the Development Agreement and the PAAA Documentation in respect of each of the Subject Flats such as payments towards hardship compensation, transit accommodation rent, brokerage and displacement compensation shall be paid to the respective Respondents in Possession against free and vacant possession of the respective Subject Flat being handed over to the Developer;

(I) Should possession have to be taken by force through the Court Receiver or should the execution of the PAAA Documentation have to be done through the Learned Court Receiver, the Developer shall hand over payment

instruments in the name of the Respondents in Possession in respect of the respective Subject Flats to the Learned Court Receiver, with a detailed statement showing the working of the amounts due and payable in respect of each of the Subject Flat. Such payment instruments in the names of the respective Respondents in Possession shall be handed over to the Learned Court Receiver by the Developer at least one working day prior to the Developer being handed over possession of the respective Subject Flat by the Learned Court Receiver. The Developer shall demonstrate to the satisfaction of the Learned Court Receiver, the accuracy of the computation of the amounts due and payable in respect of the Subject Flat. The Court Receiver shall hand over the payment instruments so received from the Developer to the Respondents in Possession. It is made clear that the receipt of such payments shall be without prejudice to the pursuit of claims to entitlements by other Respondents in other appropriate litigation.

8. The aforesaid framework is a purely meant to be an equitable adjustment in exercise of jurisdiction of this Court under Section 9 of the Act.

9. With the aforesaid directions, this Petition is finally disposed of.

10. 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.

3) The Applicant has now filed the present Application seeking allotment of equivalent and 28% additional area in respect of the garage allegedly owned and occupied by her. At the time of passing of order dated 11 September 2025, she had relied on order dated 31 July 2025 passed in Writ Petition No. 3466 of 2025 in support of her claim towards the garage. I have gone through the order dated 31 July 2025 passed in Writ Petition No. 3466 of 2025. The said petition was filed by the Society challenging the order passed by the Registrar directing grant of membership to the Applicant. Prima facie the order does not deal with the issue of Applicant's entitlement in respect of the garage.

4) I have briefly heard the Applicant appearing in person and Mr.Daver, the learned counsel appearing for the Original Petitioner and Mr.Satpute, the learned counsel appearing for Respondent No.3-Society.

5) After having considered the submissions canvassed on behalf of the parties, it is seen that there is a serious dispute as to whether the Applicant was also the owner of the garage in question. It is disputed as to whether Applicant purchased any garage during the auction sale along with her flat. The entitlement of the Applicant towards equivalent and additional area in lieu of the said garage is dependent on resolution of factual and legal controversy with regard to her ownership claim over the said garage. That claim cannot be adjudicated in the present application. The Applicant will have to institute substantive proceedings for proving that she was also the owner of the garage together with Flat No.11 for the purpose of claiming benefits flowing out of the redevelopment process in respect of the said garage.

6) So far as the dispute relating to terrace is concerned, the same is outside the prayers in the Application. However, Applicant invites my attention to para-4 of the order dated 11 September 2025. The enquiry in pursuance of directions in para-4 of the order dated 11 September 2025 has apparently established that there is only one terrace. Mr. Daver has clarified that the Applicant would be entitled to the benefits of redevelopment process in respect of the said terrace as per Clause-8.3 of the Development Agreement. In

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case, the Applicant has any claim for higher area for the terrace, she will have to adopt substantive proceedings in respect thereof.

7) By filing interim application in a disposed of Section 9 Petition filed by the Developer, Applicant cannot seek to get adjudicated her claims in respect of garage or terrace.

8) With the above observations, the Interim Application is **disposed of** leaving open the substantive remedy of the Applicant in respect of her claim for garage and terrace.

[SANDEEP V. MARNE, J.]

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