

Shabnoor

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN IT'S COMMERCIAL DIVISION

COMMERCIAL ARBITRATION PETITION (L) NO.16351 OF 2026

Vaswani Projects Private Limited

A private limited company registered under
Provisions of the Companies Act, 1956
Having its office at Unit No. 601,
Kalpak Optimus, Tuner Road, Bandra (West),
Mumbai- 400 052

... Petitioner

V/s.

**1. Utsahi Maratha Mandal Co-operative
Housing Society Limited**

A Society registered under the provisions of
the Maharashtra Co-operative Societies Act,
1960 having its registered address at Rebello
Road, Opposite Municipal Garden, Bandra
(West), Mumbai-400 050.

2. Shweta Vijay Jadhav

Adult Indian Inhabitant
Residing at
Flat No. G4, Wing No. A,
Utsahi Maratha Mandal Co-operative
Housing Society Limited
Rebello Road, Opposite Municipal Garden,
Bandra (W), Mumbai-400 050.

3. Abhishek Vijay Jadhav

Adult Indian Inhabitant
Residing at
Flat No. G4, Wing No. A,
Utsahi Maratha Mandal Co-operative
Housing Society Limited
Rebello Road, Opposite Municipal Garden,
Bandra (W), Mumbai-400 050.

4. Sumati Sadanand Malkar

Adult Indian Inhabitant

Residing at
Flat No. 402, Wing No. B,
Utsahi Maratha Mandal Co-operative
Housing Society Limited
Rebello Road, Opposite Municipal
Garden, Bandra (W), Mumbai-400 050.

5. **Umesh Gangaram Gawade**

Flat No. 404, Wing B,
Utsahi Maratha Mandal Co-operative
Housing Society Ltd.,
Rebello Road, Opposite Municipal Garden,
Bandra (West), Mumbai – 400050.
Also residing at: 104, Crystal Building,
Kadeshwari Mandir Marg,
Bandra (West), Mumbai – 400050.

6. **Sudesh P. Dalvi**

Adult Indian Inhabitant
Residing at Flat No. 103, Wing B,
Utsahi Maratha Mandal Co-operative
Housing Society Ltd., Rebello Road,
Opposite Municipal Garden, Bandra (West),
Mumbai – 400050.

7. **Avinash Dataram Chindane**

Adult Indian Inhabitant
Residing at Flat No. 202, Wing B,
Utsahi Maratha Mandal Co-operative
Housing Society Ltd., Rebello Road,
Opposite Municipal Garden, Bandra (West),
Mumbai – 400050.

8. **Hemlata A. Chindane**

Adult Indian Inhabitant
Residing at Flat No. 103, Wing B,
Utsahi Maratha Mandal Co-operative
Housing Society Ltd., Rebello Road,
Opposite Municipal Garden, Bandra (West),
Mumbai – 400050.

9. **Deepika Ravindra Dhuri**

10. **Rahul Ravindra Dhuri**

11. **Rashmi Ravindra Dhuri**
All Adult Indian Inhabitants
All residing at Flat No. 204, Wing B,
Utsahi Maratha Mandal Co-operative
Housing Society Ltd., Rebello Road,
Opposite Municipal Garden, Bandra (West),
Mumbai – 400050.
12. **Hemant Chindane**
Adult Indian Inhabitant
Residing at
Flat No. 303, Wing B,
Utsahi Maratha Mandal Co-operative
Housing Society Ltd., Rebello Road, Opposite
Municipal Garden, Bandra (West),
Mumbai – 400050.
13. **Makarand Y. Sathe**
Adult Indian Inhabitant Residing at
(Being the Legal Heir of Yeshwant C. Sathe)
Flat No. 402, Wing C,
Utsahi Maratha Mandal Co-operative
Housing Society Ltd., Rebello Road,
Opposite Municipal Garden,
Bandra (West), Mumbai – 400050.

Also residing at:
Flat No. 121, 12th Floor, Pinto Villa,
S.K. Bole Road, Dadar (West),
Mumbai – 400028.
14. **Elina Norris**
15. **Darlene Misquita**
Both Adult Indian Inhabitants
Both being the occupants of
Flat No. 402, Wing C, Utsahi Maratha
Mandal Co-operative Housing Society Ltd.,
Rebello Road,
Opposite Municipal Garden,
Bandra (West), Mumbai – 400050.
16. **Trevor Fernandes**
Adult Indian Inhabitant Residing at

Flat Nos. 101 & 102, Wing A,
Utsahi Maratha Mandal Co-operative
Housing Society Ltd., Rebello Road,
Opposite Municipal Garden,
Bandra (West), Mumbai – 400050.

17. Enid Anthony

Adult Indian Inhabitant
Residing at
C/o Mr. John Anthony,
5 Aero View, Church Pakhadi, Road No. 2,
Sahar, Andheri (East), Mumbai – 400099.

18. Juneila Francis,

Adult Indian Inhabitant
Having permanent address at
Flat No.25, Shanti Kunj, Behind Kedari
Garden Landmark Green Court Restaurant,
Fatima Nagar, Pune 411 040.
And having temporary address at
Sarkari Bawdi, Adjacent to Mount Mary
and St. Peter's Apartment, Bandra (W),
Mumbai 400 050.

19. Regina Kanagaraj

Adult Indian Inhabitant
Block No. 3/Tenement No. 36M-3,
Utsahi Maratha Mandal Co-operative
Housing Society Ltd.,
Rebello Road, Opposite Municipal Garden,
Bandra (West), Mumbai – 400050.

Also residing at:

Sarkari Bawdi, Adjacent to Mount Mary
and St. Peter's Apartment,
Bandra (West), Mumbai – 400050.

20. Daniel Kanagaraj

Adult Indian Inhabitant
Block No. 3/Tenement No. 36M-3,
Utsahi Maratha Mandal Co-operative
Housing Society Ltd.,
Rebello Road, Opposite Municipal Garden,

Respondents

...

Bandra (West), Mumbai – 400050.

Also residing at:

Sarkari Bawdi, Adjacent to Mount Mary and
St. Peter's Apartment,
Bandra (West), Mumbai – 400050.

Mr. Mayur Khandeparkar a/w Mr. Jimish Shah, Nirvi Shah
Advocate for petitioner

Mr. Piyush Raheja, with Nitesh Menon for respondent No.1.

Mr. Anand Pai with Sahil Sayyed, and Lavanya Panicker i/by
Arun Panicker for respondent Nos.2, 4, 5, 9, 10 & 11.

Mr. Pradeep Thorat i/by Abhilash Chitre for respondent No.6.

Ms. Sonali Humane i/by Ranjana Todankar for respondent
No.12.

Mr. Santosh D. Raje with Prathamesh D. Sarang, Kaivalya M.
Rawl for respondent No.13.

Mr. Brian Dlima, Advocate for respondent Nos.14 & 15.

Mr. Durgaprasad S. Sabnis with Harsh Pathak, and Hitel Lala for
respondent N.16.

Mr. Rohit Pandit with Anand B. Tiwari i/by K.D. Shukla for
respondent Nos.18, 19, & 20.

CORAM : AMIT BORKAR, J.

RESERVED ON : JUNE 25, 2026.

PRONOUNCED ON : JULY 3, 2026

1. The petitioner has filed this petition under Section 9 of the Arbitration and Conciliation Act, 1996. By this petition, the petitioner is asking for interim protection from this Court till the

arbitral proceedings are started. The petitioner has prayed for necessary directions so that the redevelopment of the property belonging to respondent No.1 Society can be carried out as per the Development Agreement executed between the parties. The petitioner has also prayed that respondent Nos.2 to 20 should be restrained from creating any obstruction, interference or difficulty in carrying out the redevelopment work. According to the petitioner, the redevelopment project has already been approved by an overwhelming majority of the members of respondent No.1 Society and, therefore, the remaining members cannot stop its implementation.

2. The facts which have given rise to the present petition may be briefly stated. The petitioner is a private limited company incorporated under the provisions of the Companies Act. The petitioner is engaged in the business of development and redevelopment of immovable properties and also undertakes construction projects in the city of Mumbai.

3. Respondent No.1 is a co-operative housing society registered under the provisions of the Maharashtra Co-operative Societies Act, 1960. The Society is the owner of the property more particularly described in the Schedule to the petition, which is hereinafter referred to as the said property. On 9 February 2020, in a Special General Body Meeting, the Society passed a resolution to undertake redevelopment of the said property. Thereafter, on 25 August 2020, the Society appointed M/s. Shilp Associates as its Project Management Consultant to guide and assist the Society throughout the redevelopment process. Later, in the Annual

General Meeting held on 29 November 2020, all the members unanimously decided to proceed with the redevelopment. Thereafter, in the Special General Body Meeting held on 30 January 2021, the Society authorised the Project Management Consultant to prepare the tender documents and invite offers from interested developers.

4. After completion of the tender process and after considering the offers received from different developers, the members of respondent No.1 Society, in the Special General Body Meeting held on 18 January 2024, agreed in principle to appoint the petitioner as the developer for redevelopment of the said property. Thereafter, in the Special General Body Meeting held on 10 February 2024, in the presence of the Authorised Officer appointed by the Deputy Registrar of Co-operative Societies, H/West Ward, and also in the presence of the Project Management Consultant, the petitioner was finally selected and appointed as the developer. According to the petitioner, more than 51% of the members of the Society gave their consent to its appointment, as required under the Government Directions governing redevelopment of co-operative housing societies.

5. By its letter dated 19 February 2024, respondent No.1 Society formally confirmed the appointment of the petitioner as the developer. Thereafter, by communication dated 15 April 2024, the Deputy Registrar of Co-operative Societies also approved and confirmed the appointment of the petitioner for carrying out the redevelopment project through its group companies. Subsequently, in the Special General Body Meeting held on 16 March 2025, the

members of the Society considered and approved the final drafts of the Development Agreement and other connected documents. The Society also authorised three members of its Managing Committee to execute those documents on its behalf. Pursuant to the said authority, the petitioner and respondent No.1 Society executed the Development Agreement on 8 May 2025, and the same was duly registered.

6. According to the petitioner, after execution of the Development Agreement, it started taking necessary steps to fulfil its obligations under the agreement. The petitioner obtained the required statutory permissions and, on 28 February 2026, secured the Intimation of Disapproval from the Municipal Corporation of Greater Mumbai. The petitioner has pointed out that while obtaining the said Intimation of Disapproval, it did not immediately utilise the additional Floor Space Index so that the interests of the Society and its members remained protected. Thereafter, in the Special General Body Meeting held on 5 April 2026, the members of respondent No.1 Society resolved that the petitioner had complied with its initial obligations under the Development Agreement by obtaining the first Intimation of Disapproval and the required concession approvals from the Municipal Corporation. Accordingly, on 8 April 2026, the petitioner issued a preliminary notice calling upon all the members and occupants of the Society to vacate their respective premises so that the redevelopment work could commence.

7. It is the case of the petitioner that after issuance of the said notice, forty-three members of respondent No.1 Society, on 11

April 2026, submitted their written consent stating that they were ready and willing to vacate their respective flats and hand over possession. However, respondent Nos.2 to 20, who are the only remaining members or occupants, neither vacated their premises nor handed over possession. According to the petitioner, they have failed to comply with the terms of the Development Agreement and have unlawfully refused to co-operate with the redevelopment process. The petitioner contends that because of the conduct of respondent Nos.2 to 20, the redevelopment project has been unnecessarily delayed and obstructed, even though it has been approved by the required majority of the Society members and despite the petitioner having performed its obligations under the Development Agreement.

8. According to the petitioner, disputes have now arisen between the parties regarding implementation of the Development Agreement, which contains a valid arbitration clause. Since the arbitral proceedings are yet to commence, the petitioner submits that its contractual rights require immediate protection from this Court. It is contended that unless interim relief is granted, respondent Nos.2 to 20 will continue to obstruct the redevelopment work, causing serious prejudice not only to the petitioner but also to the large majority of the members of respondent No.1 Society who have already consented to the redevelopment and are waiting for the project to commence. The petitioner has further contended that the balance of convenience is in its favour and that, in the absence of interim protection, it will suffer irreparable loss and injury. It is in these circumstances that

the petitioner has approached this Court by filing the present petition under Section 9 of the Arbitration and Conciliation Act, 1996.

9. Mr. Khandeparkar, learned Advocate appearing for the petitioner, invited my attention to Clauses 16(i) to 16(iii) of the Development Agreement. He submitted that all the conditions mentioned in those clauses have already been complied with by the petitioner. Referring to the definition of "Preliminary Notice to Vacate" in the Development Agreement, he submitted that it means a written notice which the developer can issue to the Society after completing the preliminary obligations mentioned in Clause 16(i). By issuing such notice, the developer calls upon the Society, its members and the occupants of the tenanted premises to give written confirmations agreeing to vacate their respective premises and to hand over the entire property to the developer by the specified date so that the redevelopment work can begin. He submitted that out of 54 members holding 54 flats, as many as 43 members have already given their consent for redevelopment through the petitioner and, accordingly, the General Body passed a resolution on 5 April 2026. He further submitted that by the said resolution, the General Body also approved the draft of the consent letters to be signed by all the members recording their willingness to vacate their respective premises after the petitioner completes the remaining preliminary and pre-vacation obligations. According to him, respondent Nos.2 to 20 have failed to submit such consent letters. Therefore, the petitioner issued a Preliminary Notice to Vacate to the Society on 8 April 2026 in accordance with Clause

16(iii) of the Development Agreement, which permits the developer to issue such notice after completing the preliminary obligations within the prescribed period. He further submitted that respondent Nos.14 and 15 are presently in possession of Flat No.C-402. Likewise, in respect of Tenement No.36M-3, because of the dispute amongst respondent Nos.17 to 20, respondent Nos.19 and 20 are presently in possession. He submitted that wherever there is a dispute amongst the owners, the persons who are actually in possession of the premises can be paid transit rent and other similar compensation.

10. Mr. Pai, learned Advocate appearing for respondent No.2, submitted that the present petition is wholly misconceived and deserves to be dismissed. Referring to the relevant provisions of the Development Agreement, he submitted that the expression "Minimum Development Potential" means the Floor Space Index required for construction of all the rehabilitation premises of the Society members together with the two security flats contemplated under Clause 21.1 of the agreement. According to him, the petitioner was under a contractual obligation to obtain sufficient FSI for construction of the entire rehabilitation component as well as the two flats to be kept as security before seeking possession from the members.

11. He further submitted that a plain reading of Clause 16.1 of the Development Agreement clearly shows that the petitioner was required to complete all the preliminary obligations within six months from the date of execution and registration of the Development Agreement. This included obtaining an Intimation of

Disapproval together with the required FSI for the Minimum Development Potential. According to him, since the Development Agreement was executed and registered on 8 May 2025, the petitioner was required to obtain a valid and complete IOD on or before 8 November 2025.

12. He further submitted that the petitioner has not shown that any Force Majeure event had taken place during the said period which prevented it from performing its contractual obligations or which could justify the delay in obtaining the IOD. According to him, there is no material on record to explain such delay.

13. He further submitted that the document relied upon by the petitioner as the IOD, which is annexed as Exhibit "M" to the petition, is dated 28 February 2026. According to him, even if it is assumed, without admitting, that the petitioner was entitled to some extension of time, the IOD was admittedly obtained after expiry of the contractual period prescribed under Clause 16 of the Development Agreement. Therefore, according to him, the petitioner has clearly committed a breach of its contractual obligations.

14. He further contended that by filing the present petition under Section 9 of the Arbitration and Conciliation Act, 1996, the petitioner is attempting to overcome its own contractual defaults and compel the members of the Society to vacate their premises before fulfilling its obligations. According to him, the petitioner cannot ask the members to hand over possession unless it first pays the agreed contractual amount of Rs.50,00,000/- and also

obtains a valid IOD incorporating the final BMC approved FSI and TDR required for implementation of the redevelopment project. He submitted that there is nothing on record to show that the petitioner has obtained any revised or further IOD containing the required development potential.

15. He further submitted that Clause 16.2 of the Development Agreement clearly provides that if the petitioner fails to complete the preliminary obligations within six months, it becomes liable to pay a sum of Rs.50,00,000/- to the Society by way of a pay order. According to him, since the petitioner admittedly failed to obtain the necessary approvals on or before 8 November 2025, the liability to pay the said amount has already arisen and the petitioner has still not discharged the same.

16. He submitted that unless the petitioner first complies with both these obligations, namely obtaining the required IOD for the Minimum Development Potential and paying the contractual amount of Rs.50,00,000/-, it cannot call upon the members of the Society to vacate their respective premises.

17. He further submitted that, in any event, the notice issued by the petitioner is only a Preliminary Notice to Vacate. According to him, under the scheme of the Development Agreement, the Final Notice to Vacate can be issued only after the petitioner obtains the entire FSI and TDR required for implementation of the redevelopment project. According to him, the petitioner has not yet reached that stage and, therefore, its demand for possession is premature.

18. He further submitted that the layout plan and the FSI shown therein represent only the basic FSI and do not satisfy the requirement of the "Minimum Development Potential" contemplated under Clause 16.1 of the Development Agreement. According to him, fulfilment of this requirement is a condition which must first be satisfied before even a Preliminary Notice to Vacate can be issued.

19. On the above basis, he submitted that unless the petitioner first obtains the required FSI for construction of the entire rehabilitation component together with the two security flats forming part of the free-sale component, the question of asking the members to vacate their respective premises does not arise. He therefore submitted that the present petition deserves to be dismissed.

20. Mr. Thorat, learned Advocate appearing for respondent No.6, adopted the submissions made on behalf of respondent No.2. In addition, he invited my attention to the affidavit-in-reply filed on behalf of respondent No.6. He submitted that the present petition itself has become untenable in view of the petitioner's own letter dated 25 May 2026 addressed to respondent No.1 Society. According to him, by the said letter, the petitioner has admitted that there have been substantial changes in the redevelopment proposal and in the overall planning of the project. He pointed out that the petitioner itself stated that there was an increase in the development potential, greater utilisation of FSI, revised planning, additional podium parking levels, changes in the location of the rehabilitation floors, increase in the additional carpet area to be

given to the members from 34% to 42%, enhancement of transit rent and several other modifications affecting the redevelopment project.

21. He further submitted that by the same communication, the petitioner requested the Society to authorise execution of supplementary agreements and other additional documents for formally recording the revised benefits and modified terms of redevelopment. According to him, this itself amounts to an admission by the petitioner that the redevelopment proposal, the benefits to the members and the contractual arrangement between the parties had undergone substantial changes and therefore required fresh documentation.

22. He further submitted that admittedly no supplementary Development Agreement has been executed incorporating the revised terms proposed by the petitioner. Similarly, no revised Permanent Alternate Accommodation Agreement or any other supplementary contractual document has been executed between the parties recording the enhanced benefits, revised planning or modified redevelopment proposal.

23. He submitted that in the absence of such supplementary agreements and revised contractual documents, serious issues arise regarding the contractual basis on which the petitioner seeks to compel the members of the Society to vacate their respective premises. According to him, after having itself accepted that supplementary agreements are necessary for recording the revised terms and additional benefits, the petitioner cannot simultaneously

contend that all contractual obligations have been completed and seek mandatory directions requiring the members to hand over possession. He therefore submitted that the reliefs sought in the present petition are premature and not maintainable.

24. On the other hand, Mr. Sabnis, learned Advocate appearing for respondent No.16, submitted that his client is presently in possession of Flat Nos.A-101 and A-102. However, there is a civil suit pending before the competent Civil Court between different persons claiming title over the said flats. He therefore submitted that the Permanent Alternate Accommodation Agreement may be executed with respondent No.16, subject to the final decision in Suit No.3245 of 2024.

25. Mr. Raje, learned Advocate appearing for respondent Nos.14 and 15, submitted that according to the records of the Society, respondent Nos.14 and 15 are in possession of Flat No.C-402. He further submitted that there is a dispute regarding the rights over the said flat between respondent Nos.13 to 15.

26. The learned Advocate appearing for respondent No.13 submitted that his client is ready and willing to vacate Flat No.C-402. The learned Advocate appearing for respondent No.12 submitted that his client is in possession of Flat No.B-303. According to him, since there is a dispute amongst different persons claiming title to the said flat, the Permanent Alternate Accommodation Agreement should be executed with respondent No.12 in respect of Flat No.B-303.

27. The learned Advocate appearing for respondent Nos.17 to 20 submitted that the dispute regarding the rights of the legal representatives to claim statutory tenancy is presently pending before the competent Court. He further submitted that they are claiming an additional area of 70 square feet over and above the area offered by the petitioner.

28. In rejoinder, Mr. Khandeparkar submitted that wherever disputes exist amongst the legal heirs in relation to particular flats, and if such persons are not willing to execute the consent terms or the Permanent Alternate Accommodation Agreement, this Court may appoint a Court Receiver for signing such documents on their behalf so that the redevelopment project is not unnecessarily delayed.

REASONS AND ANALYSIS:

29. I have considered the submissions made by the learned Advocates appearing for all the parties. I have also gone through the pleadings, documents placed on record and the relevant clauses of the Development Agreement. After considering the material, it appears that the dispute in the present petition turns on two questions. The first is whether the petitioner has complied with the obligations under Clause 16 of the Development Agreement so as to seek interim protection under Section 9 of the Arbitration and Conciliation Act, 1996. The second is whether the objections raised by respondent Nos.2 to 20 are of such nature that they can stop the redevelopment project, though it is not disputed that the project has been approved by the majority of the members

of respondent No.1 Society. Therefore, both these questions are required to be considered together while examining the terms of the agreement and the legal position applicable to the case.

30. It is not in dispute that respondent No.1 Society decided to redevelop its property after following the procedure. The record shows that a Project Management Consultant was appointed, tenders were invited and offers were received from developers. After considering those offers, the petitioner was selected as the developer. The material further shows that this appointment was approved in the General Body Meeting held in the presence of the Authorised Officer appointed by the Deputy Registrar. Thereafter, the Development Agreement was executed. These facts are not disputed by the respondents. Therefore, at this stage, I do not find that the appointment of the petitioner as developer can be reopened in these proceedings. If any member had grievance about the appointment process or the resolutions passed by the Society, the law provides a remedy. Such issue cannot be gone into while deciding the present petition under Section 9.

31. The objection raised by respondent No.2 is that the petitioner has not completed the Obligations mentioned in Clause 16.1 of the Development Agreement. According to respondent No.2, the expression "Minimum Development Potential" does not mean only the rehabilitation building of the Society but also includes the secured premises referred to in Clause 21.1. Therefore, according to him, unless the petitioner obtains the FSI necessary for both these components, Clause 16.1 cannot be treated as complied with. It is also submitted that the IOD relied

upon by the petitioner is dated 28 February 2026, whereas the contractual time for obtaining such approval had already expired. On that basis, it is argued that the petitioner committed breach of the Development Agreement and first became liable to deposit Rs.50,00,000/- under Clause 16.2 before issuing any notice asking the members to vacate. According to respondent No.2, unless these conditions are fulfilled, no interim protection can be granted.

32. At first sight, the submission made on behalf of respondent No.2 appears to have some force because Clause 16.1 refers to obtaining an IOD covering the Minimum Development Potential. However, one clause of a agreement cannot be read by leaving aside the remaining clauses. The agreement has to be read as a whole so that every part of it gets meaning. If one clause is read in isolation, the other provisions may become lose their effect. Such interpretation should be avoided. Therefore, Clause 16 is required to be read together with the other clauses of the agreement as well as the conduct of the parties after execution of the agreement.

33. In the present case, after the petitioner obtained the IOD dated 28 February 2026, the Society held a Special General Body Meeting on 5 April 2026. The material placed on record shows that in that meeting the Society considered whether the petitioner had complied with the obligations under the Development Agreement. Thereafter, the members passed a resolution recording that the petitioner had completed those obligations by obtaining the initial IOD together with the approvals. Acting on that resolution, the petitioner issued the Preliminary Notice to Vacate on 8 April 2026. Therefore, at least at this stage, it appears that the Society

accepted that the stage contemplated under Clause 16.3 had arrived. This subsequent conduct of the Society cannot be ignored because the Society treated the petitioner's compliance as sufficient and moved ahead with the redevelopment process.

34. Another important aspect is that respondent No.2 has not challenged the resolution dated 5 April 2026 before any competent forum. If according to respondent No.2 the General Body wrongly interpreted the Development Agreement or wrongly accepted that the petitioner had completed the Preliminary Obligations, the proper course was to challenge that resolution before the forum having jurisdiction. No such proceedings are shown to have been filed. In absence of such challenge, this Court, while exercising jurisdiction under Section 9 of the Arbitration Act, cannot sit in appeal over the decision taken by the General Body. Such an exercise would travel beyond the limited scope of these proceedings.

35. At this stage, the judgment of the Division Bench in *Pranav Constructions Limited* becomes relevant. The Division Bench has held that grievances of individual members regarding redevelopment, implementation of redevelopment, additional benefits or resolutions passed by the Society cannot be decided in proceedings under Section 9 of the Arbitration Act. Such disputes have to be taken before the proper forum under Section 91 of the Maharashtra Co-operative Societies Act or by filing an appropriate civil suit, depending upon the nature of the dispute. The Division Bench has also held that because such disputes exist, a petition under Section 9 seeking interim protection cannot be rejected. In

my view, these principles apply to the facts of the present case.

36. If the above principles are applied to the facts before this Court, it becomes clear that the objections raised by respondent No.2 travel beyond the scope of a petition under Section 9. Whether the General Body understood the expression "Minimum Development Potential", whether the petitioner ought to have obtained further FSI, whether every requirement was complied with or whether the Society ought to have accepted the petitioner's compliance are all matters connected with implementation of the Development Agreement and the decisions of the Society. Those issues may give rise to separate disputes between the members and the Society. However, they cannot become a reason for refusing interim protection.

37. I also do not find much substance in the submission that because the petitioner issued a communication dated 25 May 2026 offering additional benefits to the members, the existing Development Agreement became incapable of implementation. In redevelopment projects, changes in planning, increase in FSI, enhancement of benefits or better financial terms are not uncommon. Such changes are made to improve the project and to give benefits to the members. Merely because the petitioner proposed better terms, it cannot follow that the Development Agreement became unworkable. The communication shows that the petitioner intended to execute supplementary documents for recording the revised benefits. Prima facie, this indicates an attempt to improve the project and not to abandon the existing agreement.

38. Likewise, the contention that no supplementary Development Agreement or revised Permanent Alternate Accommodation Agreement has yet been executed does not persuade me to hold that redevelopment cannot proceed. Whether supplementary documents become necessary will depend upon acceptance of the revised proposal by the Society. That stage is yet to come. As on today, the Development Agreement continues to remain in force. It has not been terminated or set aside by competent authority. Therefore, merely because supplementary documents have not yet been executed, it cannot be said that the redevelopment project cannot proceed.

39. Much emphasis was laid on the delay in obtaining the IOD and on the alleged liability of the petitioner to deposit Rs.50,00,000/- under Clause 16.2. Prima facie, these contentions may give rise to disputes between the Society and the petitioner. Whether there was breach, whether the amount became payable, whether there was Force Majeure, whether there was waiver or whether compliance was relaxed are all disputed questions requiring evidence. Such questions are decided in appropriate proceedings. At this stage, this Court is not expected to record findings on those issues. More importantly, respondent No.1 Society has not terminated the Development Agreement on these grounds. On the contrary, it continues to support the petitioner and the redevelopment project.

40. The record further shows that forty-three out of fifty-four members have submitted written consent expressing their willingness to vacate their premises. Therefore, the redevelopment

project has support of an majority of the Society members. The opposition comes from respondent Nos.2 to 20. The Division Bench in *Pranav Constructions Limited* has held that individual members cannot stop redevelopment merely because they have disputes regarding implementation of redevelopment or their personal benefits. Those disputes have to be decided before the proper forum. Therefore, merely because a few members have raised objections, the redevelopment project approved by the majority cannot be kept pending, particularly when there is no order passed by any Court staying the redevelopment.

41. So far as the disputes relating to title and possession of certain flats are concerned, those issues stand on a different footing and therefore require separate consideration. The material placed on record shows that disputes exist in respect of Flat No.B-303, Flat No.C-402, Flat Nos.A-101 and A-102 and Tenement No.36M-3. Learned counsel appearing for the concerned respondents submitted that civil suits or other proceedings between rival claimants are already pending. Therefore, this Court cannot decide those rights in the present proceedings. Such disputes will have to be decided by the competent Court where they are already pending.

42. However, in my opinion, those disputes regarding title cannot be allowed to stop the redevelopment project. At the same time, the rights of persons who are actually in possession also require protection. The principles laid down by the Division Bench in *Ritesh Haldar* are useful in this regard. The Division Bench has made a distinction between ownership rights and possessory

rights. It has held that the person who actually hands over possession cannot be denied transit rent or alternate accommodation because disputes regarding ownership are pending. At the same time, execution of the Permanent Alternate Accommodation Agreement can continue in the name of the person reflected in the Society records, subject to the outcome of the title proceedings. In my view, the same principle can be applied to the present case.

43. Therefore, wherever disputes exist between rival owners, legal heirs or other claimants, the redevelopment need not wait till all those disputes are decided. The person who is in possession can hand over possession for redevelopment and receive transit rent and other similar benefits so that such person is not left without temporary accommodation. Likewise, execution of the necessary documents can remain subject to the decision in the pending proceedings. Such arrangement, in my opinion, protects the rights of all concerned and at the same time allows the redevelopment project to move forwardy.

44. The apprehension expressed by some respondents that execution of redevelopment documents may affect their title does not appear to be well-founded. Execution of a Permanent Alternate Accommodation Agreement or acceptance of transit rent, hardship compensation or similar benefits does not decide ownership or extinguish any legal right. Those documents are executed for carrying out redevelopment. Questions relating to ownership, tenancy or succession remain open and can be decided by the competent Court. Therefore, no prejudice can be said to be caused

because redevelopment is allowed to proceed.

45. The submission made on behalf of the petitioner that, wherever rival claimants are unwilling to execute the required documents, appropriate arrangement can be made through appointment of the Court Receiver also appears to be a workable suggestion. Such course has been adopted in appropriate cases so that redevelopment of the building is not delayed because of disputes between a few persons. Such arrangement is for facilitating redevelopment. It does not decide any right of any party.

46. In view of the foregoing discussion, and upon overall assessment of the record, the following order is passed:

(i) The Petition is allowed in terms of prayer clauses (a) and (b), subject to the directions contained in this order.;

(ii) Respondent Nos.2 to 20 shall hand over vacant and peaceful possession of their respective premises to the petitioner within a period of two weeks from the date of receipt of a written communication from the petitioner fixing the date for handing over possession, subject to the petitioner complying with the obligations contemplated under Clause 16.5 of the Development Agreement before taking possession.;

(iv) In the event respondent Nos.2 to 20 or any of them fail to hand over vacant and peaceful possession of their respective premises within the period stipulated in clause (ii) above, the Court Receiver, High Court, Bombay, is appointed

as Receiver of the respective premises of such defaulting respondents with all powers under Order XL Rule 1 of the Code of Civil Procedure, 1908, including the power to take forcible and physical possession of the said premises, if necessary with the assistance of the jurisdictional police authorities. Upon taking possession, the Court Receiver shall forthwith hand over possession of the respective premises to the petitioner to enable implementation of the redevelopment project in accordance with the Development Agreement dated 8 May 2025;

(v) In respect of premises where there is no dispute regarding title or possession, the petitioner shall execute the Permanent Alternate Accommodation Agreement with the concerned member whose name is reflected in the records of respondent No.1 Society;

(vi) In respect of Flat No. B-303, Flat No. C-402, Flat Nos. A-101 and A-102 and Tenement No.36M-3, where rival claims regarding ownership, tenancy or succession are stated to be pending, execution of the Permanent Alternate Accommodation Agreement shall be in the name of the person whose name stands recorded as member in the records of respondent No.1 Society, unless otherwise directed by the competent Court. Such execution shall remain subject to the final outcome of the pending proceedings between the claimants;

(vii) The transit rent and brokerage in respect of Flat No. A-G4 shall be paid by the petitioner to respondent No.3. The transit rent and brokerage in respect of Flat No. C-402 shall be paid to respondent Nos.14 and 15. The transit rent and brokerage in respect of Block No.3, Tenement No.36M-3 shall be paid to respondent Nos.19 and 20. The aforesaid amounts shall be payable from the date on which possession of the respective premises is handed over to the petitioner until the date of handing over possession of the respective permanent alternate accommodation. Payment of the aforesaid amounts shall be subject to the final outcome of the pending proceedings, if any, between the rival claimants and shall be without prejudice to their respective rights and contentions;

(viii) Upon completion of the redevelopment, possession of the permanent alternate accommodation shall be handed over to the person entitled thereto in accordance with law and subject to the orders passed by the competent Court in the pending proceedings, if any;

(ix) It is clarified that the observations made in this order are only for deciding the present petition under Section 9 of the Arbitration and Conciliation Act, 1996. They shall not be construed as expressing any final opinion on the disputes relating to title, succession, tenancy, membership of the Society or entitlement to any additional benefits under the redevelopment scheme, all of which are expressly kept open for adjudication before the competent forum;

(x) It is further clarified that execution of the Permanent Alternate Accommodation Agreement, payment of corpus or hardship compensation, payment of transit rent or handing over of alternate accommodation in terms of this order shall not create, extinguish or finally determine the proprietary, tenancy or possessory rights of any party;

(xi) The petitioner shall commence arbitral proceedings in accordance with law within the period prescribed under Section 9(2) of the Arbitration and Conciliation Act, 1996, if arbitral proceedings have not already commenced;

(xii) There shall be no order as to costs.

(xiii) All pending Interim Applications, if any, stand disposed of.

(AMIT BORKAR, J.)