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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS COMMERCIAL DIVISION

COMM ARBITRATION PETITION (L) NO.10449 OF 2026

Borivali Sea-View Cooperative Housing Society Limited … **Petitioner**

Vs.

1. **Town Aaadi Buildjet LLP**
2. **Akash Tarunkumar Shah**
3. **Rajiv Darji** … **Respondents**

Mr. Rohaan Cama with Mr. Anish Karande, Mr. Vishal Thaker, Ms. Anjali Trivedi, Mr. Mulanshu Vora, and Mr. Hridaya Kashyap for the petitioner.

Mr. Mukesh Vashi, Senior Advocate with Mr. Mihir Kakade, and Mr. Rishi Patodia i/by Jayakar & Partners for respondent No.1.

Mr. Zubin Sheth i/by YNA Legal for respondent No.2.

Mr. Rohan Savant with Mr. Aman Saraf, Mr. Nikhil Wable, Mr. Mihir Kakade, and Mr. Rishi Patodia i/by Jayakar & Partners for respondent No.3.

CORAM	**: AMIT BORKAR, J.**
RESERVED ON	**: JULY 8, 2026.**
PRONOUNCED ON	**: JULY 14, 2026**

JUDGMENT:

1. By this arbitration petition, the petitioner has prayed for several interim reliefs pending the hearing and final disposal of the arbitral proceedings and till execution of the Award. The petitioner has prayed for appointment of the Court Receiver, High Court, or any other fit and proper person as Court Receiver, with all powers, to take physical possession of the property being Plot No.1, Part of Survey Nos.8 to 13, CTS Nos.1 to 6, 6F and 611 to 6, admeasuring about 3642.40 sq. metres, situated at Village Magathane, Taluka Borivali, at Shree Ram Nagar, S.Y. Road, Borivali (West), Mumbai 400092, together with the structures standing thereon, by removing the respondents or any person claiming through them, with police assistance if necessary, and to hand over exclusive possession of the property to the petitioner without royalty or security. The petitioner has also prayed for an order restraining the respondents from obstructing the appointment of any new developer or the redevelopment work to be carried out by such new developer. A further prayer is made to restrain the respondents from holding themselves out as the developer of the property, from asserting any right to carry out redevelopment or construction, from acting under the Development Agreement or any connected document, and from creating any third party rights in respect of the property. The petitioner has also sought a mandatory direction directing the respondents to hand over all original documents relating to the redevelopment project, including letters issued by MCGM, plans, sanctioned plans, approvals, permissions, the Development Agreement dated 29 October 2020, the Supplemental Agreement dated 27 October 2025, the Power of Attorney dated 29 October 2020, the new Power of Attorney dated 27 October 2025 and all other connected documents in their possession. The petitioner has further prayed for permission to execute and register a fresh Development Agreement with a new developer notwithstanding the Development Agreement dated 29 October 2020, the Supplementary Development Agreement dated 27 October 2025, the Powers of Attorney and other related documents which, according to the petitioner, stand validly terminated. The petitioner has also prayed for directions requiring the respondents to hand over all No Objection Certificates issued by Structural Engineers, Architects, Consultants, MEP Consultants, Project Management Consultants, Licensed Plumbing Contractors, Electrical Contractors, Painting, and Fabrication Contractors and other agencies appointed for the redevelopment project. The petitioner has also prayed for a direction requiring the respondents to terminate all contracts, appointments and agreements entered into by them in relation to the redevelopment project or, in the alternative, for a declaration that such contracts shall not bind the petitioner Society, its members or the property. The petitioner has also sought a direction requiring the respondents to deposit arrears of rent, temporary alternate accommodation charges and other monetary benefits payable to all members of the Society amounting to Rs.6,65,94,180/-, together with interest at the rate of 18% per annum with compounding from the respective due dates till payment or deposit. A further direction is sought directing the respondents to pay the outstanding property tax of Rs.2,38,25,560/- payable to the MCGM and all other statutory dues, including Goods and Services Tax, payable prior to 20 March 2026, so that the Society, its members and the property do not suffer on account of such defaults. Lastly, the petitioner has prayed for a direction requiring the respondents, pending commencement and conclusion of the arbitral proceedings, to disclose on oath the personal wealth and properties of the partners along with those of their family members.

2. The facts giving rise to the present arbitration petition, as pleaded by the petitioner, are these. A Development Agreement was executed and registered on 29 October 2020 between the petitioner Society, respondent No.1, then known as M/s. Town KCD Developers LLP, and the individual members of the Society. Under the said agreement, the Society, with the consent and confirmation of its members, granted respondent No.1 the absolute and exclusive right to redevelop the Society property on the terms and conditions contained therein. Clause 17 of the said Development Agreement contains an arbitration agreement between the parties. Before execution of the Development Agreement, all members of the Society had vacated their respective flats by 19 June 2019. Thereafter, the existing building was demolished. It also appears that even before execution of the Development Agreement, respondent No.1 had obtained the Intimation of Disapproval (IOD) on 28 July 2020. On 29 October 2020, the Society also executed and registered an irrevocable General Power of Attorney in favour of the authorized partner of respondent No.1 in furtherance of the Development Agreement.

3. It is the petitioner's case that on 1 November 2021 respondent No.1 obtained the Commencement Certificate for construction of the new building. During December 2021, respondent No.1 carried out certain construction activities at the site. Thereafter, respondent No.1 executed Permanent Alternate Accommodation Agreements (PAAAs) with all individual members of the Society except the owners of Flat No.1/A/01, namely, Preeti Ramanlal Mehta and Mrs. Varsha Sanjay Mehta. According to the petitioner, thereafter the Society addressed a notice dated 20 September 2024 to respondent No.1 terminating the Development Agreement, the Power of Attorney and all Permanent Alternate Accommodation Agreements executed between the Society, its members and respondent No.1.

4. The record further shows that on 21 September 2024 the Society filed Commercial Arbitration Petition (L) No.29125 of 2024 under Section 9 seeking interim reliefs against respondent No.1. Thereafter, on 30 November 2024, respondent No.1 filed Commercial Arbitration Petition (L) No.36225 of 2024 seeking reliefs against the Society. Both proceedings ultimately came to be disposed of by a common order dated 21 May 2025, whereby this Court appointed a learned Sole Arbitrator for adjudication of the disputes and claims between the parties.

5. During the pendency of the arbitral proceedings, on 27 October 2025, the Society and respondent Nos.1, 2 and 3 executed Consent Terms. Under those Consent Terms, the Society unconditionally withdrew its termination notice dated 20 September 2024 and accepted that the Development Agreement, the Power of Attorney and all individual registered Permanent Alternate Accommodation Agreements would continue to remain valid and subsisting, subject to the modifications recorded in the

Consent Terms. Respondent No.1 agreed to register the Supplementary Development Agreement and the new Power of Attorney within sixty-five days from the date of receipt of the arbitral award and to furnish a certified copy thereof to the Society within seven days of registration. Respondent No.1 also agreed to bear the entire liability towards stamp duty, registration charges and Goods and Services Tax, if any, payable on these documents. It was further agreed that the period for project completion would commence within sixty days from registration of the Supplementary Development Agreement and that the project timelines would remain subject to receipt of the consent award and execution and registration of the Supplementary Development Agreement. The Consent Terms also provided for release of the cheques referred to therein after registration of the Supplementary Development Agreement and the new Power of Attorney. Respondent No.1 further agreed to pay rental assistance and displacement compensation for the period from November 2025 to October 2026, brokerage charges from November 2025 for the succeeding twelve months till receipt of the full Occupation Certificate, the Society's advocates' fees after registration of the Supplementary Development Agreement and legal expenses for preparation of the Consent Terms not exceeding Rs.3 lakhs. It was also agreed that except to the extent modified by the Consent Terms and the Supplementary Development Agreement, all other terms and conditions contained in the original Development Agreement and other transaction documents would continue to remain valid and binding upon the parties. It was further agreed that the decision-making authority of respondent No.3, namely Rajiv Darji, in respondent No.1 and in the project would stand divested.

6. On the very same day, namely 27 October 2025, the Society and respondent No.1 executed a Supplementary Development Agreement for modifying and supplementing the terms of the original Development Agreement. The Supplementary Development Agreement substantially incorporated the same terms which were contained in the Consent Terms. By Clause 30 of the Supplementary Development Agreement, Clause 17 of the original Development Agreement relating to arbitration was modified so as to provide for adjudication of disputes by a sole arbitrator. On the same date, the Society also executed an irrevocable Power of Attorney in favour of respondent No.2, namely Akash Tarunkumar Shah. Thereafter, on 28 October 2025, the learned Sole Arbitrator passed an Award in terms of the Consent Terms. Subsequently, on 14 November 2025, an application was submitted before the competent stamp authority seeking adjudication of the stamp duty payable on the Supplementary Development Agreement.

7. After the Consent Award, the petitioner contends that the Society repeatedly called upon the respondents to comply with their obligations under the Consent Terms and the Supplementary Development Agreement. On 10 December 2025 and again on 16 December 2025, the Society, through one of its Managing Committee members, addressed emails to respondent No.2 reminding him that respondent No.1 was required to register the

Supplementary Development Agreement and the new Power of Attorney on or before 1 January 2026 and requested him to inform the Society about the progress made in that regard. Thereafter, by letter dated 24 December 2025, the Society once again called upon the respondents to disclose the present status of registration of the Supplementary Development Agreement and the new Power of Attorney. The said communication was replied to by the Advocates for the respondents. The Society's erstwhile Advocates also addressed a further communication reiterating that the respondents were under a contractual obligation to complete the registration of the Supplementary Development Agreement and the new Power of Attorney within the stipulated period.

8. According to the petitioner, as the respondents failed to perform their obligations even thereafter, the Society issued a Notice to Cure Breaches dated 19 January 2026 under Clause 32 of the Supplementary Development Agreement. By the said notice, the respondents were called upon to cure the breaches and defaults mentioned therein, including the failure to register the Supplementary Development Agreement and the new Power of Attorney, within a period of forty-five days from the date of receipt of the notice. In reply, respondent No.1 addressed a letter dated 4 March 2026 through respondent No.3, and respondent No.3 also addressed the letter in his personal capacity. In the said reply, it was stated that on 14 November 2025 an application had already been submitted before the stamp authority for adjudication of stamp duty payable on the Supplementary Development Agreement and that, as on 4 March 2026, respondent No.1 was still awaiting determination of the proper stamp duty by the competent authority.

9. It is the petitioner's case that since the alleged breaches continued even thereafter, a Special General Body Meeting of the Society was convened on 7 March 2026. In the said meeting, a resolution was passed terminating the Development Agreement, the Supplementary Development Agreement, all Permanent Alternate Accommodation Agreements and the Power of Attorney. Thereafter, on 20 March 2026, the Society issued a formal notice of termination to the respondents terminating the Development Agreement, the Supplementary Development Agreement, all Permanent Alternate Accommodation Agreements and the Power of Attorney. According to the petitioner, this action was taken because of the several breaches allegedly committed by the respondents and also because the Society had completely lost confidence and faith in respondent No.1 and its management. On these facts, the present arbitration petition has been filed.

10. The first breach alleged by the petitioner is the failure of the respondents to register the Supplementary Development Agreement and the new Power of Attorney within the period agreed between the parties. According to the petitioner, under the Consent Terms and the Supplementary Development Agreement, respondent No.1 was required to register both documents within sixty-five days from the date of receipt of the Arbitral Award after paying the necessary stamp duty, registration charges and other statutory charges. Since the Award was passed by the learned Arbitral Tribunal on 28 October 2025, the respondents were required to complete the registration on or before 1 January 2026. The petitioner contends that this contractual obligation was not performed within the agreed period.

11. The petitioner submits that instead of completing the registration, respondent No.1 and respondent No.3 merely contended that an application for adjudication of stamp duty had been submitted before the stamp authority on 14 November 2025 and that, even as on 4 March 2026, respondent No.1 was awaiting determination of the proper stamp duty payable on the Supplementary Development Agreement. According to the petitioner, this explanation does not amount to compliance with the contractual obligation undertaken by the respondents. It is also the petitioner's case that respondent No.2 has accepted that registration of the Supplementary Development Agreement and the new Power of Attorney could not be completed within the stipulated period, though respondent No.2 has stated that such failure occurred for reasons beyond his control.

12. The second breach alleged by the petitioner relates to the failure to take steps towards project completion. According to the petitioner, under the Consent Terms and the Supplementary Development Agreement, all timelines for completion of the redevelopment project were dependent upon registration of the Supplementary Development Agreement. Since the respondents failed to complete the registration of that document, no further effective steps could be taken towards completion of the redevelopment project. It is the petitioner's case that the respondents have, therefore, failed to move the project forward in accordance with the agreed schedule. The petitioner further points out that respondent No.2 has also accepted this breach.

13. The third breach alleged by the petitioner is regarding non-payment of (i) arrears of monthly rental assistance or displacement compensation, (ii) brokerage charges, and (iii) shifting charges. According to the petitioner, at the time of execution of the Consent Terms and the Supplementary Development Agreement on 27 October 2025, the cheques referred to in Clause 17 of the Consent Terms and Clause 16 of the Supplementary Development Agreement, all bearing the date 27 October 2025, were deposited with the petitioner's erstwhile Advocates. It was agreed that these cheques would be released by the Advocates of the petitioner only after registration of the Supplementary Development Agreement and the new Power of Attorney. Since the respondents failed to register those documents within the agreed period, the cheques could not be released and, according to the petitioner, all such cheques have now become stale and incapable of being encashed.

14. The petitioner has also alleged that the respondents failed to pay rental assistance, displacement compensation, brokerage charges and legal charges incurred for preparation of the Consent Terms. According to the petitioner, the payments referred to in Clauses 21, 23, 24 and 32 of the Consent Terms were independent obligations and were not made contingent upon registration of the Supplementary Development Agreement, unlike the payment of arrears of rent. Though no specific time limit was prescribed in the Consent Terms or the Supplementary Development Agreement for making these payments, the petitioner contends that they were required to be made within a reasonable time from the date of execution of the said documents. It is the petitioner's case that the respondents failed to discharge these obligations.

15. The petitioner has further alleged that the respondents committed a breach by failing to pay property taxes, statutory liabilities and other statutory charges. In support of this allegation, reliance is placed upon the extract of the Assessment and Collections Department, which, according to the petitioner, shows that property tax amounting to Rs.2,38,25,560/- remained outstanding and unpaid. The petitioner contends that the respondents were under an obligation to clear these statutory dues.

16. Another breach alleged by the petitioner relates to non-compliance with the obligation of divesting respondent No.3, namely Rajiv Darji, of the decision-making authority in respondent No.1 and in the redevelopment project. According to the petitioner, instead of giving effect to this obligation, respondent No.1, acting through respondent No.3, and respondent No.3 in his individual capacity, addressed the letter dated 4 March 2026 in reply to the Notice to Cure Breaches dated 19 January 2026 while continuing to represent respondent No.1. The petitioner contends that this conduct itself shows that the obligation undertaken under the Consent Terms was not honored. It is also pointed out that respondent No.2 has stated that respondent No.3 has failed to comply with his obligations under Clause 38.

17. Mr. Vashi, learned Senior Advocate appearing on behalf of respondent No.1, submitted that the reliefs claimed in the present petition, even if otherwise found to be justified on merits, could at the highest be granted only till the stage of institution of execution proceedings. According to the learned Senior Advocate, the petitioner is substantially seeking enforcement of the Consent Terms recorded before the learned Arbitral Tribunal. Therefore, the appropriate remedy available to the petitioner is to seek execution of the Award and not to seek the present reliefs beyond that stage in proceedings under Section 9 of the Arbitration and Conciliation Act, 1996.

18. Mr. Zubin Sheth, learned Advocate appearing on behalf of respondent No.2, submitted that respondent No.2 has no objection if the reliefs prayed for by the petitioner are granted. At the same time, he specifically denied the allegations made against respondent No.2. He further submitted that respondent No.2 has already initiated appropriate legal proceedings against the partners and, therefore, respondent No.2 cannot be held responsible for the defaults alleged by the petitioner.

19. Mr. Rohan Savant, learned Advocate appearing for respondent No.3, submitted that the reliefs claimed by the petitioner can be considered only by the Executing Court. According to him, no such relief can be granted pending execution of the Arbitral Award. He further submitted that the Development Agreement, in terms of the original understanding between the parties, was lodged for adjudication under Section 31 of the Maharashtra Stamp Act. According to the learned Advocate, the authorities functioning under the said Act failed to determine the proper stamp duty within a reasonable time. Therefore, respondent No.3 cannot be blamed for the delay in registration of the Development Agreement, as the delay occurred because the adjudication proceedings before the stamp authorities were still pending.

20. In reply, Mr. Cama, learned Advocate appearing for the petitioner, submitted that merely submitting an instrument before the stamp authority for adjudication cannot be treated as submitting the instrument for registration. According to him, the purpose of adjudication is only to determine the proper stamp duty payable on the document. On the other hand, lodging the document for registration is the first mandatory step required for registration under the law. He, therefore, submitted that the respondents cannot avoid their contractual obligations by attributing the delay to the authorities under the Maharashtra Stamp Act. According to him, the failure to comply with the agreed terms is entirely attributable to the respondents themselves.

21. With regard to the objection raised on behalf of respondent No.1 that the reliefs can survive only till execution of the Award, Mr. Cama submitted that the petitioner is not intending to confine its rights only to those arising under the Consent Terms. According to him, the Society is also contemplating initiation of independent arbitral proceedings for enforcement of its rights arising under the original Development Agreement and the other contractual arrangements entered into before the settlement between the parties. He, therefore, submitted that the interim reliefs sought in the present petition deserve to continue pending disposal of the arbitral proceedings and till execution of the Award, as prayed for by the petitioner.

22. In support of the above submissions, Mr. Cama placed reliance upon the judgment of this Court in *Punjab National Bank Workers' Co-operative Housing Society Limited v. Meeti Developers Private Limited,* Arbitration Petition (L) No. 8189 of 2020 decided on 11 February 2021. According to him, in similar facts this Court granted interim relief in favour of the Society after holding that the developer had committed default and had failed to commence the redevelopment project. He also relied upon the judgment of this Court in *Vishwakiran Co-operative Housing Society Ltd. v. M/s. Super Construction Company in Arbitration Petition No. 156 of 2025*. He submitted that in the said decision, where a similar supplementary agreement had been executed between the parties, the Co-ordinate Bench held that execution of the Consent Terms by itself does not affect the enforceability of the original redevelopment agreement. According to the learned Advocate, these decisions support the grant of the interim reliefs sought by the petitioner in the present proceedings.

REASONS AND ANALYSIS:

23. I have considered the pleadings, the documents placed on record, the rival submissions advanced by the learned Senior Counsel and the learned Advocates appearing for the respective parties, and the reliefs sought in the present petition.

24. The dispute between the parties arises out of redevelopment of the petitioner's property. It is not in dispute that the parties entered into the Development Agreement dated 29 October 2020. It is not in dispute that disputes arose between them, which resulted in execution of Consent Terms dated 27 October 2025, execution of the Supplementary Development Agreement on the same day, and passing of the Consent Award by the learned Sole Arbitrator on 28 October 2025. These facts are admitted. However, the parties differ on the legal effect flowing from these events.

25. According to the petitioner Society, the Consent Terms and the Supplementary Development Agreement never substituted the original Development Agreement. It is contended that respondent No.1 accepted fresh obligations, including registration of the Supplementary Development Agreement and the new Power of Attorney within sixty-five days from the Award, payment of rental assistance and completion of the redevelopment project within the revised timelines. According to the petitioner, none of these obligations were performed. Because of defaults, the Society issued a Notice to Cure Breaches and thereafter terminated the contract by resolution of the General Body followed by notice dated 20 March 2026.

26. Having considered these rival submissions, I am of the opinion that the first question which arises is whether, after execution of the Consent Terms, the Supplementary Development Agreement and the Consent Award, the original relationship between the parties has disappeared or whether it continues with certain modifications. Unless this issue is examined, it would not be possible to decide the objection regarding maintainability of the present petition under Section 9 of the Arbitration and Conciliation Act, 1996. It is, therefore, necessary to first examine the effect of the Consent Terms and the Supplementary Development Agreement.

27. The Consent Terms show that parties did not intend to wipe out the original Development Agreement. On plain reading of the Consent Terms, several clauses merely modify existing obligations, prescribe fresh timelines, substitute certain responsibilities and impose additional obligations upon respondent No.1. At the same time, the parties agreed that except to the extent modified, all other terms and conditions of the original Development Agreement would continue to remain binding. This contractual stipulation cannot be ignored while deciding the present controversy.

28. The Supplementary Development Agreement proceeds on the same footing. It is not an independent transaction. It has no separate existence disconnected from the original Development Agreement. Every right, every obligation and every stage of redevelopment continues to flow from the original Development Agreement. The Supplementary Development Agreement changes some of those obligations. If the original Development Agreement is removed, many clauses of the Supplementary Development Agreement would become incapable of operation. Therefore, prima facie, both documents appear to operate together.

29. At this stage, useful reference can be made to Sections 62 and 63 of the Indian Contract Act, 1872. Section 62 provides:

"If the parties to a contract agree to substitute a new contract for it, or to rescind or alter it, the original contract need not be performed."

30. Section 63 further provides:

"Every promisee may dispense with or remit, wholly or in part, the performance of the promise made to him, or may extend the time for such performance, or may accept instead of it any satisfaction which he thinks fit."

31. These provisions make distinction between substitution of a contract and alteration of contractual obligations.

32. The Supreme Court in *Chrisomar Corporation v. MJR Steels Private Limited and Another*, (2018) 16 SCC 117, while considering Sections 62 and 63 of the Indian Contract Act, explained that every alteration does not bring original contract to an end. The Court approved the principle that where the subsequent arrangement has no independent force and cannot stand without the principal agreement, the original agreement continues except to the extent of inconsistency. The Supreme Court observed that where alteration goes to the very root of the contract and changes its character can it be said that the original contract has disappeared. Otherwise, the modified agreement and the original agreement are required to be read together.

33. The same principle has been applied by this Court in *Mahindra Mangilalji Jain v. M/s. Radha Construction Co. and Others*, Commercial Arbitration Application (L) No.12427 of 2025 decided on 4 March 2026. It was held that where several documents form one composite transaction and one document cannot operate without the other, the arbitration clause contained in the principal agreement may continue to govern disputes arising from all such documents. The Court held that inseparably connected documents cannot be read in isolation.

34. Similar view has also been taken in *Vishwakiran Co-operative Housing Society Ltd*. This Court observed that execution of Consent Terms and a Supplementary Redevelopment Agreement does not bring the arbitration clause contained in the original redevelopment agreement to an end where the supplementary document modifies and supplements the original agreement and both documents continue to operate together. The Court further held that if the original redevelopment agreement continues to survive, it becomes difficult to hold that only the arbitration clause has disappeared while every other obligation continues.

35. In the present case also, I do not find any clause whereby parties agreed that the arbitration agreement contained in the original Development Agreement would cease to operate. On the contrary, what appears from the record is that parties intended redevelopment to continue under modified terms. They altered timelines, imposed fresh obligations, changed the authorised person and modified certain conditions. But the foundation of redevelopment continue to remain the original Development Agreement. Therefore, at least prima facie, I am unable to hold that the original relationship stood extinguished.

36. The submission of respondent No.3 that delay occurred because stamp duty adjudication remained pending also requires consideration. True it is that application for adjudication appears to have been submitted before the competent authority. However, the obligation undertaken by respondent No.1 was not to seek adjudication. The obligation was to ensure registration of the Supplementary Development Agreement and the new Power of Attorney within the stipulated period. Whether the respondents exercised due diligence for completing that obligation or whether delay was beyond their control are disputed questions which may be examined by the learned Arbitral Tribunal after evidence. At this stage, mere filing of an application for adjudication does not establish due compliance with the obligation as process of adjudication and registration are completely independent of each other. For registration of instrument adjudication of stamp duty is not mandatoty.

37. Likewise, I am also unable to accept the submission that because a Consent Award has been passed, every remedy available under Section 9 comes to an end. The petitioner has pleaded that disputes arising under the original arrangement also survive, and further arbitral proceedings are contemplated. Whether such claim succeeds is a matter for the Tribunal. But at present, I cannot record a finding that every right has merged only into the Award.

38. Therefore, on overall consideration of the documents, the rival submissions and the legal principles laid down in the above decisions, I am prima facie satisfied that the original Development Agreement has not been shown to have disappeared because Consent Terms, Supplementary Development Agreement and the Consent Award came into existence. Those documents appear to modify certain obligations but do not substitute the original contract. Consequently, the preliminary objection regarding maintainability does not persuade me to reject the petition at this stage.

39. Having held that the present petition is maintainable, it now becomes necessary to examine whether the petitioner has made out a case for grant of interim protection.

40. It is not disputed that the Supplementary Development Agreement and the new Power of Attorney were not registered within the period mentioned in the Consent Terms. It is also not disputed that redevelopment has not progressed thereafter. The explanation offered by respondent Nos.1 and 3 is that adjudication of stamp duty remained pending. Whether such explanation constitutes sufficient justification will have to be examined by the learned Arbitral Tribunal. However, for present purpose, fact remains that timelines have not been achieved.

41. Much emphasis was laid by respondent Nos.1 and 3 upon the submission that execution proceedings constitute the proper remedy. I have already held that such submission does not answer the present controversy. Merely because an Award is capable of execution does not mean that this Court becomes powerless to protect the subject-matter of arbitration if circumstances otherwise justify exercise of jurisdiction under Section 9. Every case must depend upon its own facts.

42. One important circumstance cannot be overlooked. Redevelopment agreements are not commercial contracts concerning financial rights. Such agreements concern residential premises of members of a cooperative housing society. Delay in redevelopment affects every member. If redevelopment remains suspended for years together, hardship suffered by members cannot be compensated merely by award of damages. Therefore, while considering interim protection, the Court must keep in mind the object of redevelopment and the consequences likely to follow if the project remains stalled.

43. In *Vishwakiran Co-operative Housing Society Ltd.*, this Court recognised that where redevelopment remains stalled, and the society is unable to proceed because of assertion of rights by the earlier developer, appropriate interim protection may become necessary to enable the society to move forward, leaving the developer to pursue its claims before the arbitral tribunal. The Court emphasized that the rights of the members to have redevelopment completed cannot remain subordinate to the commercial interests of the developer.

44. Similar principle has guided several decisions of this Court dealing with redevelopment disputes. Though each case turns upon its own facts, the underlying approach has remained that where the redevelopment project has stopped, the Court should examine whether continuation of the arrangement would cause greater prejudice than permitting the society to protect its property and proceed in accordance with law. Naturally, such protection is subject to adjudication by the arbitral tribunal.

45. Applying these principles to the present case, I find that the petitioner has succeeded in making out a prima facie case requiring protection. The documents show that redevelopment was intended to proceed within timelines. Those timelines have not been achieved. The disputes between the parties have now become serious. Confidence between the contracting parties has deteriorated. If no interim protection is granted and the dispute continues for a prolonged period, the redevelopment project may suffer. Such consequence may prejudice both sides and may affect the members of the Society.

46. Balance of convenience also appears to lean in favour of preserving the redevelopment project rather than allowing uncertainty to continue. If the respondents succeed before the learned Arbitral Tribunal, appropriate monetary reliefs may be moulded. On the other hand, if redevelopment remains paralysed during pendency of arbitration, restoration of lost time may become difficult. Delay in redevelopment produces consequences which cannot be reversed by monetary compensation.

47. In view of the discussion made above, I am of the prima facie opinion that the petitioner has made out a case for grant of interim protection under Section 9 of the Arbitration and Conciliation Act, 1996.

48. Accordingly, the following order is passed:

(i) Pending the hearing and final disposal of the arbitral proceedings and till execution of the Award, respondent Nos.1 to 3, their partners, directors, officers, representatives, servants, agents or any person claiming through or under them are restrained from in any manner obstructing, interfering with or creating any hindrance in the petitioner Society appointing a new developer or such newly appointed developer carrying out redevelopment of the Society property'

(ii) Pending the arbitral proceedings, respondent Nos.1 to 3 are restrained from representing themselves as the developers of the suit property or from asserting any right to undertake redevelopment or construction work thereon under the Development Agreement dated 29 October 2020, the Supplementary Development Agreement dated 27 October 2025 or any connected document;

(iii) Respondent Nos.1 to 3 are further restrained from selling, transferring, assigning, alienating, encumbering, parting with possession of, or creating any third party rights or interests of whatsoever nature in respect of the redevelopment rights or the suit property pending disposal of the arbitral proceedings;

(iv) Respondent Nos.1 to 3 shall, within four weeks from today, hand over to the petitioner Society all original documents relating to the redevelopment project, including the Development Agreement dated 29 October 2020, the Supplementary Development Agreement dated 27 October 2025, the Power of Attorney dated 29 October 2020, the new Power of Attorney dated 27 October 2025, sanctioned plans, permissions, approvals, correspondence with the Municipal Corporation, and all other documents relating to the redevelopment project which are in their custody or control;

(v) The petitioner Society is permitted, subject to compliance with applicable statutory provisions, to appoint a new developer and to execute and register a fresh Development Agreement in respect of the Society property. Such execution and registration shall, however, remain subject to the result of the arbitral proceedings and shall not create any equity in favour of the newly appointed developer against any award that may ultimately be passed;

(vi) Respondent Nos.1 to 3 shall extend all necessary cooperation for implementation of this order and shall not directly or indirectly obstruct any statutory authority from processing applications submitted by the petitioner Society or by the newly appointed developer in accordance with law;

(vii) The concerned statutory authorities shall consider the applications made by the petitioner Society or its newly appointed developer on their own merits and in accordance with law, without insisting upon any consent or No Objection Certificate from respondent Nos.1 to 3 solely because of the existence of the Development Agreement dated 29 October 2020 or the Supplementary Development Agreement dated 27 October 2025. Needless to observe that this direction shall not prevent the statutory authorities from insisting upon compliance with any other statutory requirement;

(viii) The prayers seeking immediate deposit of alleged arrears of rent, displacement compensation, brokerage, statutory dues and disclosure of personal assets involve disputed questions requiring evidence. Those claims are kept open to be adjudicated by the learned Arbitral Tribunal. Liberty is reserved to the petitioner to seek appropriate interim relief before the learned Arbitral Tribunal, if circumstances so require;

(ix) All rival contentions of the parties on facts and law are expressly kept open. The learned Arbitral Tribunal shall decide the arbitral proceedings on their own merits without being influenced by any prima facie observations contained in this judgment;

(x) It is clarified that this Court has not expressed any final opinion on the legality or validity of the termination notice dated 20 March 2026, the alleged breaches committed by either party, or the ultimate contractual rights arising under the Development Agreement dated 29 October 2020, the Supplementary Development Agreement dated 27 October 2025 or the Consent Award dated 28 October 2025. Those issues shall be decided exclusively by the learned Arbitral Tribunal;

(xi) The Arbitration Petition is accordingly allowed in the above terms.

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

(AMIT BORKAR, J.)