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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.26779 OF 2026

Padmavati Nagar Co-operative Housing Society Limited
General Arunkumar Vaidya Marg,
Near Western Express Highway
Goregaon East, Mumbai 400 063 **... Petitioner**

Vs.

Viraj Properties and Real Estate Pvt. Ltd. Earlier known as Viraj Properties
Kumar Capital, 2413, East Street, Camp, Pune 411 001. **...Respondent**

Mr. Birendra Saraf, Senior Advocate a/w Mr. Vaibhav Charawalla, Mr. Reehan Ajmerwalla i/b Priya Chaturvedi, for the Petitioner.

Mr. Vijay D. Patil, Senior Advocate a/w Mr. Yogesh Patil, for the Respondent.

CORAM	**: AMIT BORKAR, J.**
RESERVED ON	**: AUGUST 21, 2026.**
PRONOUNCED ON	**: AUGUST 25, 2026**

<u>JUDGMENT</u>:

1. The Petitioner has been required to approach this Court seeking urgent interim reliefs because, despite the Development Agreement having been lawfully terminated on account of serious breaches and defaults on the part of the Respondent, the Respondent continues to remain in possession of the Society Property and, according to the Petitioner, is doing so without any lawful authority and by force.

2. In the year 2010, the building of the Petitioner Society had become old, dilapidated and structurally weak. The cost required for carrying out repairs was very high and, according to the members, such repairs were not commercially workable. The members therefore unanimously came to the conclusion that the better and permanent course would be to demolish the old building and construct a new residential building by using the permissible FSI. The Society accordingly decided to redevelop its property. On 19.07.2010, a Special General Body Meeting of the Petitioner Society was held. In the said meeting, the members resolved to invite offers from developers for redevelopment of the Society Property. Pursuant to the said resolution, on 21.07.2010, the Society published a Public Notice in the Times of India inviting tenders from developers for undertaking the redevelopment of the Society Property.

3. In response to the Public Notice, on 03.08.2010, the Respondent submitted its proposal for undertaking the redevelopment. In the said proposal, the Respondent represented that it would obtain all necessary approvals within 12 months from the date of the Development Agreement and approval of the plans by the Society. It represented that construction would commence within six months from obtaining such approvals and that the project would be completed within 24 months from the date of the

Commencement Certificate. The Respondent offered 45% additional area to the members, comprising 20% carpet area and 25% usable area. It agreed to pay corpus and rent calculated at Rs.50/- per sq. ft. of the existing carpet area, which was to increase to Rs.53/- to Rs.55/- per sq. ft. The Respondent agreed to furnish a Bank Guarantee equivalent to the construction cost from Punjab & Sind Bank. According to the Petitioner, these representations made by the Respondent were the basis on which the Society appointed the Respondent as its developer. On 06.09.2010, the Society formally appointed the Respondent as developer by issuing a Letter of Appointment in its favour. By the said appointment, the Respondent was given the contractual right to undertake the redevelopment, subject to the terms and conditions which were to govern the redevelopment. On 27.09.2012, the Society and the Respondent executed a Development Agreement. The said Agreement was registered before the Sub-Registrar of Assurances at Borivali under Serial No.7477 of 2012. On the same day, the Society executed a registered Power of Attorney in favour of the Respondent's partners, Mr. Manish Vimalkumar Jain and Mr. Aditya Jayant Dadhe, under Serial No.7478 of 2012. The Power of Attorney was given for the limited purpose of facilitating the redevelopment of the Society Property.

4. Clause 6.1.3 and Clause 25 of the Development Agreement provided for completion of the redevelopment within 24 months from the date of the Commencement Certificate. Clause 26 provided a grace period of six months. After expiry of the said grace period, the Respondent was liable to pay liquidated damages of Rs.1,00,000/- per month. Clause 27 provided that possession of the redeveloped premises was to be handed over to the members within 15 days from the date of the Occupation Certificate. Clause 42 contained the arbitration agreement between the parties.

5. On 30.11.2013, a unilateral Deed of Conveyance in respect of an additional piece of land admeasuring 320 sq. metres, forming part of the Society Property, was executed in favour of the Society. The said conveyance was registered on 29.03.2014 under Serial No.2901 of 2014. The said additional area was subsequently treated as forming part of the property made available to the Developers for redevelopment. On 29.12.2014, a first Supplementary Development Agreement was executed between the parties. It was registered under Serial No.985 of 2015 on 30.01.2015. The said Supplementary Development Agreement was entered into pursuant to the resolutions passed by the Society in its Special General Body Meetings dated 08.11.2014 and 16.11.2014. By this Supplementary Development Agreement, the additional 320 sq. metres of land was brought within the scope of the Development Agreement. Clause 6 of the Supplementary Development Agreement recorded a "substantial difference" between the carpet area claimed earlier and the carpet area. The area statement annexed to the original Development Agreement dated 27.09.2012 was therefore cancelled, rescinded and revoked and was substituted by a revised area statement at Annexure "D". As a result, the carpet area which each member was to receive was reduced by approximately six per cent. Clause 8 of the

Supplementary Development Agreement made it clear that all the other terms and conditions of the original Development Agreement would continue to remain binding upon the parties.

6. Nearly four years after execution of the Development Agreement, on 28.12.2016, the Respondent submitted its proposal for obtaining Zero-FSI Intimation of Disapproval ("IOD") from the Municipal Corporation. The proposal was initially rejected because of deficiencies attributable to the Respondent. Thereafter, on 30.12.2016, the Municipal Corporation issued IOD bearing No.CHE/WS-II/0932/P/N/337 (NEW). However, the said IOD lapsed without the Respondent obtaining the Commencement Certificate. The recital in Supplementary Development Agreement-II refers to the same IOD as having been "further extended up to 29.12.2018". It is the Petitioner's case that this was the only development permission ever obtained by the Respondent and that even this permission expired without the Respondent obtaining the Commencement Certificate.

7. On 10.08.2017, the Municipal Corporation issued a notice under Section 354(A) of the Mumbai Municipal Corporation Act, 1888 in respect of the existing dilapidated building. Certain individual members challenged the said notice. On 07.09.2017, the competent Court at Dindoshi granted ad-interim protection and directed that the Municipal Corporation should not demolish the structure without following due process of law.

8. On 27.12.2017, the IOD lapsed. By that time, the Respondent had failed to obtain the Commencement Certificate and had failed to comply with the conditions of the IOD, including the requirements relating to structural designs and NOCs. On 23.01.2018, the Respondent applied to the Municipal Corporation for revalidation of the lapsed IOD. (Petition pg.25, para 3.9) On 01.02.2018, the revalidation application was technically rejected by the Municipal Corporation. Though the proposal was thereafter approved in principle, no revalidated IOD was issued. According to the Petitioner, from the year 2018 onwards, the Respondent therefore did not have any valid development permission.

9. In October 2020, the existing structure standing on the Society Property was demolished. According to the Petitioner, even after the Society made the property available to the Respondent and the old building was demolished, the Respondent did not commence any meaningful redevelopment. The Society Property thereafter remained vacant and unused. The Society subsequently approved the revised layout and building plans at its meeting dated 08.03.2021 by Resolution No.Padma/Gen/2019-20/08. According to the Petitioner, even under these revised plans, the area to be made available to the members was reduced. On 08.02.2022, Supplementary Development Agreement-II was executed. By this document, several changes were made to the earlier arrangement. The partnership firm "Viraj Properties" was converted into "Viraj Properties and Real Estate Private Limited" and the powers under the Power of Attorney were transferred to the company. The built-up area of each member's flat was reduced by 50 sq. ft. The earlier area statements were cancelled and substituted accordingly. The UPPER-LEVEL car parking was allotted to the Developers as saleable area, whereas the LOWER-LEVEL parking was allotted to the members. Under Clause 9 of the Development Agreement, the obligation of the Developer to furnish the Bank Guarantee was waived, with reference being made to Government of Maharashtra Circular No.SGY 2018/PK.85/14-S dated 04.07.2019. The Society was required to transfer a area of 289 sq. metres bearing CTS No.102 for development without receiving any additional consideration. The Developers were permitted to amalgamate the Society Property with adjoining lands and to enter into arrangements with adjoining societies, and such consent was described as "irrevocable consent".

10. On 04.09.2019, Aakar Architects and Consultants, who were the Respondent's own Architects, issued a No Objection Certificate for change of Architect. In that document, they specifically recorded that, despite the issuance of the IOD, no redevelopment work whatsoever had been carried out under their supervision. On 03.09.2025, by a letter addressed by the Respondent, the Respondent admitted that possession of the Society Property had been handed over to it. It admitted that Individual Permanent Alternate Accommodation Agreements with several members had not been executed till that date and that the redevelopment had not progressed as originally contemplated. On 19.09.2025, fifty-one members of the Petitioner Society addressed a communication to the Respondent withdrawing their consent for the Respondent to continue as the developer. The members stated that the withdrawal was because of the repeated breaches committed by the Respondent, failure to comply with the agreed timelines, failure to obtain and maintain the required statutory permissions and the prolonged retention of possession of the Society Property without carrying out redevelopment.

11. On 27.01.2026, a proposal for change of Architect was submitted to the Municipal Corporation along with the documents of the new Architect. The proposal expressly recorded that the Respondent had failed to apply for the First Commencement Certificate despite the IOD. It recorded that the IOD had lapsed and that thereafter no revalidated IOD, Commencement Certificate or other development permission had been issued in favour of the Respondent.

12. On 03.04.2026, a Managing Committee meeting was held in the presence of representatives of the Respondent. At the said meeting, the Chairman and Treasurer pointed out to the Respondent various discrepancies, irregularities, misrepresentations and acts which, according to the Society, amounted to fraud. The Respondent, according to the Petitioner, did not give any satisfactory explanation and did not take any corrective steps. On 12.04.2026, a Special General Body Meeting of the Society was held. Fifty-three members attended the meeting. All the members present and voting unanimously resolved to terminate the appointment of the Respondent as developer. The reason stated was the gross and repeated breach of even the basic obligations under the Development Agreement and the complete loss of faith and trust in the Respondent.

13. On 17.06.2026, the Petitioner addressed a detailed letter to the Respondent terminating its appointment as developer. The termination was based, inter alia, on the long and unexplained delay, repeated breaches of the Development Agreement, failure to perform the contractual obligations, failure to complete the redevelopment within the agreed time and the serious prejudice caused to the members who had remained displaced for several years. The Petitioner stated that the Respondent had undertaken to obtain all the necessary permissions and complete the construction within 24 months, with a grace period of six months, reckoned from the date of the Commencement Certificate and demolition of the existing building, whichever was later. According to the Petitioner, this was a fundamental and material obligation and was one of the main reasons for appointing the Respondent. It was therefore contended that this obligation was "breached from day one." The Petitioner stated that, despite the additional 320 sq. metres having been conveyed to the Society under the Deed of Conveyance dated 30.11.2013, registered under Serial No.2901 of 2014, and despite the redevelopment potential having thereby increased and having been recorded in the Supplementary Development Agreement dated 29.12.2014, registered under Serial No.985 of 2015, the Respondent reduced the members' entitlement by approximately six per cent on the ground of revised measurements. According to the Petitioner, the members accepted the reduction only because they did not want the redevelopment to be delayed any. The Petitioner contended that the IOD was obtained only on 30.12.2016, after an unexplained delay of nearly six years, under No.CHE/WS-II/0932/P/N/337, and was thereafter stated to have been extended up to 29.12.2018. According to the Petitioner, this delay was entirely attributable to the Respondent. It resulted in the notice under Section 354 of the MMC Act in respect of the building being ruinous and dangerous. The Petitioner alleged that the Respondent failed to allot, execute or register Individual Permanent Alternate Accommodation Agreements with any of the members, which was described as a serious and fundamental breach. It was contended that during 2019-2020 the members vacated the building and the building was demolished. Even after obtaining vacant possession, however, the Respondent failed to commence substantial construction. According to the Petitioner, not even one meaningful stage of construction was completed, and the Respondent failed to obtain the revised approvals. The repeated assurances given by the Respondent that the work would be expedited were, according to the Petitioner, never fulfilled. The Petitioner alleged that on 08.02.2022 the Respondent "coerced" the members into executing Supplementary Development Agreement-II. According to the Petitioner, the said Agreement remains unregistered and resulted in a reduction of approximately 50 sq. ft. in the entitlement of each member. It was contended that the Bank Guarantee contemplated by Clause 9 was dispensed with, thereby removing an important contractual protection available to the Society. The Petitioner alleged that changes were made in the constitution and management of the Respondent's entity without complete particulars being supplied to the members and without giving them a proper opportunity to verify the credentials of the persons concerned. Even thereafter, according to the Petitioner, the Society continued to place its trust in the Respondent. However, there was thereafter "radio silence" and no substantial progress. The Petitioner relied upon the resignation letter of the Respondent's Architect dated 04.09.2025, which recorded that no work had been carried out.

14. On 20.06.2026, the Petitioner called upon the Respondent to cease and desist from representing as the developer, from entering upon or remaining on the Society Property, from dealing with the redevelopment project and from creating any third-party rights in respect of the Society Property. According to the Petitioner, the Respondent failed and neglected to comply with the said demand. On 24.06.2026, the Chairman, Treasurer and thirty-five members addressed another communication to the Respondent. They again called upon the Respondent not to act as developer, not to claim that any rights continued in its favour before any authority, not to enter the Society Property, not to interfere with the internal administration of the Society and not to approach individual members with monetary inducements. Around this period, a Demand Draft of Rs.7,00,00,000/- (Rupees Seven Crores only), issued by one IS Project Private Limited in favour of the Society, was circulated through the Secretary, purportedly on behalf of the Respondent. The Petitioner contends that this was a deliberate attempt to influence the members and weaken the lawful termination of the Respondent's appointment.

15. On 26.06.2026, the Society published a Public Notice declaring that the appointment of the Respondent as developer had been lawfully terminated. The Public Notice stated that the development documents in favour of the Respondent stood cancelled and that no person, financial institution, purchaser, contractor or other third party should enter into any transaction with the Respondent in relation to the Society Property.

16. On 27.06.2026, despite having knowledge of the termination and despite repeated demands made by the Society, the Respondent, through its representatives, agents, contractors and security personnel, entered upon the Society Property without the Society's consent. It thereafter commenced soil investigation and testing. The Petitioner contends that these acts amounted to trespass. It is alleged that the security personnel of the Respondent prevented the members and office bearers of the Society from freely accessing their own property.

17. On 05.07.2026, the Respondent addressed a letter disputing the legality of the termination. The Respondent claimed that it continued to be the developer and asserted that it had incurred substantial expenditure and had appointed contractors. It attributed the delay to various litigations and disputes. The Petitioner contends that these explanations were raised as an afterthought. According to the Petitioner, the litigations relied upon by the Respondent were mainly disputes between certain members and the Respondent had never approached any Court seeking relief on the ground that those disputes had made performance of the Development Agreement impossible. The

Respondent, in support of its stand, relied upon Clause 34 of the Development Agreement. It was contended that the Society had expressly agreed that it "will not be entitled/permitted to cancel, terminate and/or rescind this Development Agreement under circumstances". Reliance was placed upon Clause 28.6, under which the Society had given an irrevocable covenant "not to terminate this agreement". According to the Respondent, these were binding contractual covenants given for valuable consideration and the Society was bound by them and was estopped from withdrawing from the Development Agreement. The Respondent categorically denied that the demolition of the building or vacation of the premises by the members, or any delay arising from the same, could be attributed to the Respondent. It was contended that, as stated even in the Society's own notice, the building constructed in 1981-82 had become dilapidated after more than three decades and that the Municipal Corporation had demolished the building under Section 354 of the MMC Act for reasons of public safety. According to the Respondent, the condition of the building therefore existed even before the redevelopment project commenced. The Respondent contended that the demolition was covered by Clause 25(ii) of the Development Agreement, which referred to a "notice, order, Rule, Notification of the Government and/or other public or competent Authority". On that basis, it was submitted that the Respondent was entitled to a reasonable extension of time. It was contended that the demolition was carried out by the Municipal Corporation pursuant to the directions of the High Court, the Dindoshi Court and the TAC constituted by the Municipal Corporation. As regards the IOD, the Respondent contended that its expiry was only a procedural and renewable statutory requirement which was common in redevelopment projects in Mumbai. According to the Respondent, the expiry of the IOD could not mean that the Respondent had abandoned the project or was incapable of completing it. It was contended that the Respondent continued to work through its Architects and consultants for renewal and revival of the necessary approvals. The Respondent denied the allegation of "coercion" in relation to Supplementary Development Agreement-II dated 08.02.2022. It was contended that this allegation was made for the first time more than four years after execution of the document, without giving any particulars and without taking any proceedings for avoiding the Agreement. It was therefore submitted that the allegation was a subsequent afterthought and deserved to be rejected. The Respondent contended that the Development Agreement was not merely an agreement which remained to be performed in the future. According to the Respondent, it had been acted upon by both parties. The Society had accepted substantial financial benefits, while the Respondent had altered its own position and had taken several steps in connection with the project. The Respondent claimed that it had procured conveyances on three occasions and had undertaken work relating to mutation, sub-division and demarcation which, according to it, was the responsibility of the Society. It was contended that a litigation instituted in 2008 and the stay arising therefrom had not been disclosed by the Society at the tender stage and that the Respondent had succeeded in getting the said litigation dismissed in October 2012. The Respondent stated that several proceedings initiated by individual members were frivolous and that these proceedings were resolved by 15.02.2025. It was stated that a new Managing Committee was elected on 13.04.2025 and that the plans were approved on 19.12.2025. According to the Respondent, the Society had failed to hold elections after November 2020 and had thereby remained without a Managing Committee for a substantial period. The Respondent contended that this contributed materially to the delay in the project. The Respondent alleged that the Society had wrongly described the existing area in its tender as 32,000 sq. ft. According to the Respondent, the area measured by MCM in respect of all 80 flats was only 2,319.73 sq. metres, equivalent to 24,969.57 sq. ft. It was contended that the area now offered aggregated 45,612.44 sq. ft., which represented approximately 86% additional area as against the 20% additional area agreed earlier. The Respondent therefore claimed that, since corpus had been paid on the basis of the inflated figure of 32,000 sq. ft., it reserved its right to claim damages, refund and interest in respect of the excess amount which it described as having been "illegally extorted". The Respondent relied upon a schedule containing approximately eighteen litigations between the years 2010 and 2026 before civil, co-operative, revenue, municipal and police authorities. It was contended that most of these proceedings had been resolved in favour of the Society and/or the Respondent by 15.02.2025. The Respondent relied upon the steps taken by it on behalf of the Society concerning conveyance, adjudication, mutation, subdivision and demarcation of the property.

18. It is relevant that, according to the Petitioner, the Respondent has till date not challenged the Termination Notice before any Court of law. The Petitioner therefore contends that any claim which the Respondent may have in respect of expenditure allegedly incurred by it would, at the highest, be a monetary claim for damages. The Petitioner has stated that it has reliably learnt that the Respondent has clandestinely entered into a Joint Development Agreement and/or some similar arrangement with one or more third parties without obtaining the prior knowledge, consent or approval of the Society. According to the Petitioner, such an arrangement has been entered into with the object of frustrating the rights of the Petitioner and of creating third-party interests in the Society Property.

19. Mr. Saraf, learned Senior Advocate, submitted that the Development Agreement contained clear representations and obligations which were to be completed by the Developer within fixed periods. Under Annexure 1 to the Agreement, the Respondent had expressly agreed to obtain all necessary statutory approvals within 12 months from the date of the Agreement. The Respondent had specifically agreed to commence construction within six months from the date on which such approvals were obtained. It was submitted that these were binding obligations and representations on the basis of which the Petitioner had appointed the Respondent. The understanding between the parties was that the project would be completed within 24 months from the date of the Commencement Certificate and that the Commencement Certificate would be obtained within 12 months from the date of the Agreement. It was submitted that the Respondent had failed to follow these important timelines. Though the Development Agreement was executed in 2012, the Respondent did not obtain the Commencement Certificate within the agreed period of 12 months. It is a matter of record that the Intimation of Disapproval was obtained only on 30 December 2016, that is, more than four years after execution of the Development Agreement. Even thereafter, the Respondent failed to comply with the conditions contained in the IOD, including submission of structural designs and obtaining the necessary NOCs. As a result, the IOD was allowed to lapse in or around December 2017. It was submitted that there is no dispute that the Petitioner is the owner of the Society Property and that development rights in respect of the property had been granted to the Respondent. It was submitted that ownership includes the right to have exclusive possession and enjoyment of the property. An owner has the right to keep others out from possession and enjoyment of the property. The right of ownership includes the right to use and enjoy the property, to have access to it and to receive the other benefits which come with ownership.

20. According to the Petitioner, the Respondent, being only a developer under the Development Agreement, cannot forcibly retain possession of the Society Property and prevent the Petitioner and its members from entering and enjoying their own property. In the present case, the Respondent has treated the termination as invalid and has refused to vacate the Suit Property. It is alleged that the Respondent is creating obstacles in the redevelopment of the property. Without obtaining any order from any Court staying the termination notice, the Respondent has refused to vacate or hand over possession. According to the Petitioner, this has the effect of preventing the Petitioner from proceeding with redevelopment of its own property. It was submitted that the Respondent has, till date, not challenged the termination notice before any Court. According to the Petitioner, it is difficult to understand how the Respondent can refuse to accept the termination and refuse to hand over possession merely on the basis of its purported response to the termination notice, which the Petitioner describes as baseless. The Petitioner submitted that it is well settled by this Court that where the existing building has been demolished and the members and their families have been left without their homes, it is in the interest of the Society that redevelopment should proceed without delay. According to the Petitioner, after termination of the Development Agreement, the Respondent no longer has any development rights in the Society Property. Its continued occupation of the Society Property is therefore illegal. By refusing to vacate and hand over possession, the Respondent is preventing the Petitioner from proceeding with redevelopment. The Petitioner submitted that, in view of the past conduct of the Respondent, it has lost faith and confidence in the Respondent and does not wish to continue the redevelopment through it. However, according to the Petitioner, the Respondent is forcing upon the Petitioner by refusing to vacate the Society

Property and hand over possession.

21. The Petitioner submitted that a substantial amount is still due and payable to the members of the Society. The members have remained away from their homes since 2020 and, according to the Petitioner, have received no proper support or sustenance from the Respondent. It was submitted that it is well settled that even one default in payment of amounts due under a Development Agreement can be sufficient for a Society to lose faith in a developer and to justify termination. In the present case, according to the Petitioner, the breaches are far more serious and repeated, and the members therefore require immediate protection from this Court. It was submitted that any amount which the Respondent may claim to have spent on the project is not decisive for the present purpose, since the Respondent would always have a remedy to claim damages, if otherwise entitled in law. On the other hand, the members of the Society would continue to suffer and remain without their homes during the pendency of the dispute. The Petitioner therefore submitted that it has a strong prima facie case on merits. The balance of convenience is in its favour, since refusal to grant interim relief would cause serious and irreparable loss and injury to the Petitioner and its members. It was submitted that the redevelopment project is still at a very early stage. Apart from payment of a relatively small amount towards corpus fund, the Respondent has, according to the Petitioner, made no substantial investment in the project. The members of the Petitioner have been without their homes since at least 2020, when the old building was demolished on account of its dilapidated condition. It was submitted that the termination of the Respondent's appointment has still not been challenged before any Court. According to the Petitioner, there is therefore no valid reason for the Respondent to continue in possession of the Society Property to the disadvantage of the Petitioner and its members.

22. Mr. Vijay Patil, learned Senior Advocate appearing for the Respondent, submitted that the Petitioner has deliberately left out and concealed the long history of litigation relating to the redevelopment project from the very beginning. According to him, the delay which the Petitioner is now attributing to the Respondent was in fact caused by a series of frivolous and vexatious proceedings filed by a small section of the Petitioner's own members and by other third parties. The Respondent, according to the submission, had to contest these proceedings and had spent considerable time and money in doing so, in order to protect the redevelopment project and the interests of the Society. It was submitted that the Respondent has invested a very substantial amount of more than Rs.15,00,00,000/- (Rupees Fifteen Crores Only) in the project during the last fourteen years. This amount, according to the Respondent, includes payment of corpus fund, shifting charges, brokerage, stamp duty and registration charges in respect of three separate conveyance deeds executed in favour of the Society, property taxes, security charges and legal expenses incurred in defending the various litigations. It was submitted that the Agreements between the parties have been acted upon and that an irrevocable interest has consequently been created in favour of the Respondent. The Petitioner accepted the benefits arising from the Agreements and permitted the Respondent to change its position and incur substantial expenditure. According to the Respondent, the Petitioner is therefore prevented by its own conduct from now terminating the said Agreements. It was submitted that the reliefs sought in the Petition are effectively in the nature of final reliefs. In particular, the prayer seeking possession of the Society Property would, according to the Respondent, decide the main dispute between the parties even before the same is considered by the Arbitral Tribunal. The Petitioner is claiming an amount of more than Rs.29 crores. It was submitted that Section 9 of the Arbitration and Conciliation Act cannot be used for obtaining reliefs which are in substance final in nature and which are required to be decided by the Arbitral Tribunal after considering the evidence and the entire dispute between the parties. On this basis, the Respondent submitted that the present Petition is not maintainable. It was submitted that the GBR relied upon by the Petitioner is bad in law. According to the Respondent, the said GBR was obtained at the instance of a rival developer, without following the proper procedure, and is under challenge before the Co-operative Courts in proceedings initiated by members of the Society.

23. The Respondent submitted that the most important objection to the Petitioner's case arises from the express contractual terms contained in Clause 34 of the Development Agreement. Clause 34 specifically provides that the Society shall not be entitled or permitted to cancel, terminate and/or rescind the Development Agreement under any circumstances. Clause 28.6 contains an irrevocable covenant by the Society not to terminate the Agreement. It was submitted that these provisions had been specifically relied upon by the Respondent in its Reply dated 05.07.2026 and were not being raised for the first time in the present proceedings. According to the Respondent, the meaning, scope and enforceability of these contractual covenants are central questions which arise for consideration in the dispute between the parties. The Respondent submitted that the Society first entered into the Development Agreement, thereafter executed supplementary agreements, permitted the Respondent to act upon the contractual arrangement and allowed it to incur substantial expenditure. Having done so, the Society could not thereafter unilaterally declare the entire contractual arrangement to be terminated without considering the express contractual covenant which prohibited termination. According to the Respondent, the purported termination by the Society amounts to a repudiatory breach of the Development Agreement. It was submitted that the said termination has caused, and continues to cause, substantial prejudice and loss to the Respondent.

Reasons and Analysis:

24. I have considered the submissions made by Mr. Saraf, learned Senior Advocate appearing for the Petitioner, and Mr. Vijay Patil, learned Senior Advocate appearing for the Respondent. I have considered the Development Agreement, the supplementary agreements, the correspondence exchanged between the parties, the events relating to the IOD and Commencement Certificate, the demolition of the old building, the termination notice and the correspondence which followed thereafter.

25. The question before me is whether the Respondent has shown sufficient reason to continue in possession of the Society Property and to prevent the Society from proceeding with redevelopment after terminating the Respondent's appointment.

26. At the outset, I am unable to accept the submission of the Respondent that the entire case of the Petitioner is based upon suppression of earlier litigations and that the whole delay in redevelopment must be placed upon the Society or its members. The Respondent has relied upon various proceedings stated to have been filed by some members and third parties. It has referred to about eighteen litigations between 2010 and 2026. It may be that some of these proceedings did cause difficulties in the project. The Respondent has placed material showing that certain disputes were pending before civil, co-operative, revenue, municipal and other authorities. Therefore, this part of the Respondent's case cannot be ignored. Even if there were several litigations, the Respondent was required to show which particular contractual obligation could not be performed because of each such litigation, for what period it could not be performed and what steps were taken by the Respondent to obtain extension of time, protection from the Court or to otherwise take the redevelopment forward. Merely stating that litigations were pending during fourteen years cannot explain the entire period during which the redevelopment did not progress.

27. The Development Agreement dated 27 September 2012 shows that the Respondent was not appointed merely to obtain permissions at some uncertain future point of time. The Agreement contemplated redevelopment within fixed periods. Under Annexure 1, the Respondent had represented that it would obtain the necessary approvals within 12 months. It had agreed to commence construction within six months from obtaining such approvals. Thereafter, the project was to be completed within the agreed period calculated from the Commencement Certificate, subject to the provisions of the Agreement relating to extension and grace period. A Society undertakes redevelopment because its existing building has become old or otherwise unsuitable for continued occupation. The members expect to get new homes within a reasonable period. Therefore, when a Developer gives fixed timelines for obtaining approvals, commencing construction and completing the project, those timelines have to be considered in the background of the purpose for which redevelopment is undertaken. The record shows that the Development Agreement was executed on 27 September 2012, whereas the IOD was obtained only on 30 December 2016. Thus, more than four years passed between execution of the Development Agreement and obtaining the IOD. The Respondent does not dispute this basic chronology. Its explanation is that various litigations and other difficulties intervened during this period. Even if some part of the delay is accepted as being because of litigation, the events after the IOD cannot be ignored. The IOD contained certain conditions. The Petitioner says that the Respondent failed to comply with requirements including submission of structural designs and obtaining NOCs and, as a result, the IOD lapsed in or around December 2017. The Respondent says that an IOD is only a procedural permission which can be renewed and that its expiry is common in redevelopment projects.

28. The question is what the Respondent did after obtaining the IOD. It is necessary to see whether the Respondent took timely steps to move from obtaining the permission to constructing the new building. The material placed before the Court shows that, after the IOD, the project did not reach the stage of construction. The Respondent refers to steps taken through its Architects and consultants. However, there is no material before me showing that a valid Commencement Certificate was obtained and that construction thereafter commenced. On the contrary, the Respondent's own Architect, Aakar Architects and Consultants, stated in its letter dated 4 September 2019 that, despite issuance of the IOD, no redevelopment work had been carried out under its supervision. This document is a statement coming from the Respondent's own Architect. Therefore, it cannot be brushed aside.

29. The old building was demolished in October 2020. The Respondent says that the demolition took place because of action under Section 354 of the MMC Act and that the building was in a dilapidated condition. There is some substance in this submission. The old building was dilapidated and proceedings had been taken by the Municipal Corporation. The Dindoshi Court had granted protection at an earlier stage. Therefore, merely because the demolition took place, I would not hold that the demolition was a default committed by the Respondent. But this explanation does not answer what happened after the demolition. Once the old building was demolished and the Society Property became available for redevelopment, the Respondent was expected to move ahead with construction. The case of the Petitioner is that the land continued to remain vacant, and no meaningful construction was commenced. The Respondent has not placed sufficient material before me showing that any substantial stage of construction was completed even after the property became vacant.

30. The Respondent relies upon Supplementary Development Agreement-II dated 8 February 2022. It is submitted that the parties continued to act upon the Development Agreement even after the difficulties relied upon by the Petitioner had arisen. This is a relevant circumstance. The fact that the Society executed a supplementary agreement shows that the Society had not brought its relationship with the Respondent to an end. However, such later agreement cannot remove the defaults which had occurred. The conduct of both parties has to be considered as a whole.

31. The Petitioner states that under the first supplementary agreement, the area to be received by the members was reduced by about six per cent and that under the later arrangement there was a reduction of 50 sq. ft. for each member. The Respondent does not dispute that changes were made. Its case is that the Society accepted these changes as part of the contract. This circumstance again shows that the parties were attempting to continue with the redevelopment. But it does not establish that the project thereafter progressed in any meaningful manner.

32. The Respondent has relied upon its claim that it has spent more than Rs.15 crores on the project. This submission cannot be rejected. If the Respondent proves that such expenditure was incurred, the same may become relevant when its monetary claims are considered in arbitration. The amounts said to have been spent towards corpus, shifting charges, brokerage, stamp duty, registration charges, property taxes, security and litigation may show that the Respondent did incur expenditure in connection with the project. But expenditure and completion of redevelopment are two different things. The main obligation of a Developer is to redevelop the property and provide permanent alternate accommodation to the members. Merely spending money in connection with the project does not show that the main contractual obligation has been performed. It cannot give the Developer an unlimited right to remain on the Society Property when the redevelopment has not been completed for a long period.

33. In *Pioneer Constructions vs Sahakarnagar Co-operative Housing Society Ltd, 2026 SCC OnLine Bom 2711 this* Court considered the difference between the position of a purchaser under an agreement for sale and that of a Developer under a redevelopment agreement and observed:

> "When Developer fails to complete redevelopment project or delays it indefinitely, I do not see any difficulty why the society cannot terminate the Development agreement and

get the redevelopment project implemented through another developer."

The same judgment observed:

"In a redevelopment project, though a right is created in favour of the Developer to sell flats in sale component portion, he does not become owner of the land in question, nor the Development agreement is intended to confer any ownership in the land taken up for development."

34. The Court held that the right of the Developer in the sale component becomes meaningful after the Developer performs the basic obligations under the redevelopment arrangement, including putting the Society members in possession of their Permanent Alternate Accommodations. These observations show the basic nature of the relationship between the parties. The Developer receives development rights for carrying out redevelopment. Such rights are connected with performance of the redevelopment obligations. They cannot be considered as if the Developer has become the owner of the Society's land. I therefore find substance in the submission of the Petitioner that the Respondent cannot merely rely upon its earlier status as Developer and claim an independent and continuing right to remain in possession of the Society Property after termination, particularly when no order of any competent Court protecting such possession has been shown.

35. At the same time, the Respondent relies upon Clause 34 of the Development Agreement, which states:

"will not be entitled/permitted to cancel, terminate and/or rescind this Development Agreement under circumstances"

36. The Respondent relies upon Clause 28.6, which, according to it, contains an irrevocable covenant "not to terminate this agreement".

37. These clauses are required to be considered. They form part of the contract entered into between the parties. At the interim stage, the Court cannot ignore an express term. To that extent, the Respondent is right that the meaning, effect and enforceability of these clauses are important questions arising in the dispute. However, the existence of these clauses does not conclude the entire matter. The Court must still consider what the Respondent was required to do under the Agreement and what it did. If the Respondent had performed the main obligations and the Society had attempted to remove it only because it later wanted another Developer, the position could have been different. Here the material available shows that the redevelopment did not reach construction for a very long period. The clause relating to termination has to be understood along with the whole Agreement and the conduct of the parties. At this stage, it cannot be read as giving the Respondent an unlimited right to remain on the Society Property even after prolonged failure in carrying out the work for which it was appointed. Such an interpretation would mean that the Society could remain tied to a Developer indefinitely even when redevelopment does not move forward. For such a serious consequence, the contractual language would have to be clear.

38. The Respondent says that the termination by the Society amounts to a repudiatory breach. That question can be decided by the Arbitral Tribunal after considering the evidence. For the present Petition the Court has to see whether the Society has shown a strong prima facie basis for saying that the termination was made because of substantial contractual defaults. The defaults relied upon by the Society cannot be considered minor. The Respondent was appointed in 2010. The Development Agreement was executed in 2012. The IOD was obtained only in 2016. It thereafter lapsed. The old structure was demolished in 2020. Even after demolition, the project did not reach meaningful construction. Individual Permanent Alternate Accommodation Agreements were not executed with several members. The redevelopment remained incomplete and the members continued without the promised new premises.

39. The Respondent says that the Society contributed to the delay because elections were not held after November 2020 and the Society remained without a proper committee. The functioning of the Society and its Managing Committee can affect decisions concerning redevelopment. The Respondent relies upon litigations filed by members and says that most of them were resolved by 15 February 2025. But even if these circumstances are considered in favour of the Respondent, they do not explain why the project did not reach substantial construction during the whole period. The Respondent has not shown that during each period of litigation it was able to construct but was prevented from doing so by an order of a Court or by some other legal restraint.

40. The submission of the Respondent that the IOD could be renewed does not answer the absence of construction. A permission may be capable of renewal. But renewal of permission cannot be treated as performance of the redevelopment contract. The important question is whether the Respondent took the project forward after obtaining the permission. The Respondent relies upon the Society's approval of revised plans on 8 March 2021 and execution of Supplementary Development Agreement-II in 2022. These facts are relevant. They show that the Society had continued to give an opportunity to the Respondent. But the Society cannot be expected to continue giving opportunities without any end. Where the project remains incomplete even after several years, the Court cannot compel the Society to continue with the same Developer without considering the effect upon the members. The allegation that Supplementary Development Agreement-II was obtained by coercion stands on a different footing. The Agreement was executed on 8 February 2022 and the allegation of coercion appears to have been made much later. There is no contemporaneous material before me which shows coercion. I therefore do not proceed on the basis that the supplementary agreement was obtained by coercion. This does not decide whether the Respondent performed its obligations after execution of the said Agreement.

41. The Respondent says that the Society had negotiations with other Developers, including India Realtech Corporation LLP and JSW Group. This may show that the Society was looking for another manner in which the project could be completed. But this circumstance does not establish that the termination was illegal. When redevelopment remains incomplete for years, looking for another Developer can be an effort by the Society to find a solution to the continuing problem.

42. The Respondent has raised the issue of the area of the Society Property. According to the Respondent, the Society had mentioned the existing area as 32,000 sq. ft. in the tender, whereas the measured area was approximately 24,969.57 sq. ft. The Respondent says that because corpus was paid on the basis of the higher area, it has a claim for refund, damages and interest. This dispute may require consideration in arbitration. At this stage, I do not consider it necessary to decide which measurement is correct. Even if the Respondent establishes a monetary claim on this account, that claim would not give the Respondent a continuing right to remain in possession and prevent redevelopment.

43. The Respondent says that because the Development Agreement was acted upon, and substantial expenditure was incurred, an irrevocable interest was created in its favour. I am unable to accept this submission. The Respondent may have contractual rights and may have incurred expenditure. But contractual rights and ownership of land are different matters. This distinction has been held in *Pioneer Constructions*.

44. The Respondent next submits that the prayer for possession is a final relief and cannot be granted under Section 9. There is some substance in this concern because an order directing possession can have serious consequences. Such relief therefore cannot be granted casually. But Section 9 is intended to protect the subject matter of arbitration and to make the eventual arbitral proceedings effective. In a proper case, interim relief may have a mandatory effect where such relief is necessary to prevent the dispute from becoming ineffective during the arbitration. Therefore, merely because an order may have mandatory consequences does not mean that the Court has no power to grant it. The judgments relied upon by the Petitioner do not support an absolute rule that possession or similar relief can never be granted at the interim stage. In *Ison Builders LLP v. Om Sai Ram Co-operative Housing society (proposed) Commercial Arbitration Petition (L) No. 36533 of 2025 decided on 23-1-2026*, paragraph 37, this Court considered a case where the Society members were without permanent alternate accommodation and the redevelopment had remained stalled for many years. The Court observed:

> "Petitioner can claim damages against the Society and members if it can prove that the termination is invalid. However, whether the Petitioner can stall the process of redevelopment till adjudication of its claims in respect of the termination? The answer to the question appears, to my mind, to be in the negative."

45. This reasoning has relevance to the present case, though the facts of the present case are required to be considered separately.

46. The Division Bench judgment in *Huges Real Estate Developers LLP and Khernagar Adarsh Co-operative Housing*

Society Limited, Commercial Appeal No. 45 of 2025 decided on 19-8-2025 in paragraph 31 holds that the condition of an old building can become worse with every passing day and therefore timely redevelopment is important. Paragraph 33 states:

> "the fundamental principle that the rights of a developer to earn profits through redevelopment contracts would always remain subservient to the rights of the society to have its building reconstructed."

47. The Division Bench observed that where the rights of residents of dilapidated buildings to live in safe houses are compared with the Developer's right to earn profits, "the latter must yield to the former at least when it comes to consideration of grant of temporary injunction."

48. This does not mean that a Society can remove every Developer whenever it finds another Developer more suitable. The principle is that while deciding interim relief, the Court should not allow the Developer's future profit to become the reason for keeping the redevelopment project stopped indefinitely when the Society members are continuing to suffer. The facts before me are serious. The members have remained without their homes since approximately 2020. The old building has been demolished. The new building has not been completed. Therefore, the main purpose of the Development Agreement, namely providing new accommodation to the members, remains unfulfilled. The case of the Petitioner gets support from the letter of the Respondent's own Architect dated 4 September 2019, which records that no redevelopment work had been carried out under its supervision. The Petitioner relies upon the Respondent's letter dated 3 September 2025, which acknowledges that Individual Permanent Alternate Accommodation Agreements with several members had not been executed and that redevelopment had not progressed as contemplated. The members of the Society have a continuing need for redevelopment of the property. Every period of delay means that they continue without the homes which the redevelopment was intended to provide.

49. The Respondent says that the Society must first obtain a declaration that the termination is valid. I am not persuaded that, in the facts of the present case, the Society must obtain such declaration before taking steps for protecting its property and proceeding with redevelopment. The termination has been communicated. The Respondent has not shown that any Court has stayed the operation of the termination. The material relied upon by the Petitioner shows that the Respondent has not challenged the termination before any Court till date. This fact does not establish that the termination is valid. But it is relevant for considering the interim relief. If the Respondent says that the termination is invalid and that it has a continuing right to remain on the property, it can seek appropriate relief before the competent forum. Merely stating in a reply that the termination is invalid cannot create a continuing right to remain in possession.

50. The submission of the Petitioner that ownership includes the right to possess and enjoy the property is correct as a general proposition. The Society remains the owner of the property. The

Respondent has development rights. Such rights cannot be treated as ownership. Once the Society has shown a prima facie case that the termination was based upon serious defaults, the continued possession of the Respondent requires proper justification.

51. I have considered the Respondent's submission that the Petitioner is claiming Rs.29,56,00,000/- towards rent, brokerage and shifting charges and that there are substantial monetary disputes between the parties. This is correct to the extent that monetary disputes do exist. But this does not mean that the whole Petition cannot be considered under Section 9. Monetary claims can be decided in arbitration. At the same time, possession and creation of third-party rights may require interim protection so that the eventual arbitral award does not become difficult to implement. The same reasoning applies to the alleged expenditure of more than Rs.15 crores by the Respondent. I am not deciding at this stage whether the Respondent is entitled to recover this amount. I am not deciding the correctness of each item of expenditure claimed by it. These questions can be considered in arbitration. But the possibility of a monetary claim cannot justify continued physical possession when the project remains incomplete and the Society has prima facie terminated the appointment of the Respondent.

52. The principle stated in paragraph 35 of *Pioneer Constructions* where the Court observed that if interim protection is granted to the Developer, redevelopment may remain delayed indefinitely and the Society members may continue to suffer. If such protection is refused, the Developer may lose the opportunity of earning profits. However, if the Developer succeeds, it can be compensated through an arbitral award. The same consideration arises in the present case. The main commercial interest of the Respondent is the benefit which it may earn through development and sale of flats. If it succeeds in showing that the termination was wrongful, its monetary loss can be considered in arbitration. The position of the members who have remained without their homes is different. I therefore find that, at this stage, the Respondent has not shown sufficient basis to say that the contractual clause against termination gives it an unlimited right to remain in possession even after a long period of failure to carry out the main redevelopment obligations.

53. I have considered the Respondent's reliance upon the litigations, expenditure and changes in the Society's administration. These matters may have relevance in the final arbitration. But at present they do not outweigh the main chronology which is not in dispute. The project began in 2010. The Development Agreement was executed in 2012. The IOD was obtained only in 2016. The IOD thereafter lapsed. The old building was demolished in 2020. Even after demolition, there was no meaningful construction. The members have therefore continued without the reconstructed premises. The balance of convenience therefore lies in allowing the Society to proceed with redevelopment rather than keeping the property in an unfinished condition while the Respondent's monetary and contractual claims are being decided.

54. The judgment in *Pioneer Constructions* makes it clear that the rights of the Developer are subject to the larger purpose of completing redevelopment. This does not mean that the Developer has no protection. If the termination is finally found to be invalid, the Respondent can seek whatever monetary or other relief is available in law. But that possibility cannot, on the material shown, justify keeping the Society tied to a project which has remained incomplete for several years. I am therefore of the prima facie view that the Petitioner has shown prolonged failure on the part of the Respondent to perform the main redevelopment obligations. The Respondent has not shown sufficient material at this stage to establish that it was ready to carry out meaningful construction and that the whole project was stopped only because of circumstances beyond its control. The contractual clauses relied upon by the Respondent will have to be finally considered by the Arbitral Tribunal. But, in the circumstances of the present case, those clauses cannot outweigh the prolonged failure to carry out the main redevelopment work.

55. The Petitioner has therefore established a prima facie case. The balance of convenience lies in favour of the Petitioner and the Society members. If redevelopment is again stopped, the members will continue to remain without their homes and will suffer loss. The loss, if any, suffered by the Respondent can be dealt with by monetary relief if the Respondent succeeds in arbitration.

56. For these reasons, I am of the view that, for the present interim proceedings, the termination cannot be treated as so invalid that the Respondent must continue in possession merely because of Clauses 34 and 28.6. The material shows a strong prima facie case that the Respondent did not perform the essential redevelopment obligations within the contemplated period and that the Society had substantial reason to lose confidence in the Respondent. At the same time, the final rights and monetary claims of the Respondent must remain open. The Arbitral Tribunal will decide the validity of termination, damages, expenditure, contractual rights and all other claims on the basis of the evidence placed before it. The interim order is only for protecting the Society Property and allowing the redevelopment to move forward. It is not a final decision upon every dispute between the parties.

57. On considering the entire material and the rival submissions, I am therefore satisfied that the Petitioner's case is stronger for the purpose of interim relief. The Respondent cannot state that the termination is invalid and, on that basis alone, continue to retain possession of the Society Property and prevent the Society from redeveloping it. The members have waited for several years after the old building was demolished. They cannot be required to wait indefinitely merely because the Respondent disputes the termination. The relief seeking protection against creation of third-party rights is justified. Once the Respondent's appointment has prima facie been terminated and the dispute is pending arbitration, creation of third-party rights would create complications. It may make enforcement of the eventual arbitral award more difficult. Such restraint is therefore necessary to preserve the property and to keep the arbitral remedy effective.

58. As regards the claim of Rs.29,56,00,000/- towards rent, brokerage and shifting charges, I would take a different view. The exact amount payable will depend upon the terms of the Agreement, proof of the amounts, the calculations and the rival claims of the parties. These matters are better left for determination by the Arbitral Tribunal. At this stage, therefore, I do not propose to make any final finding regarding this monetary claim. The final position is therefore that the Respondent's contractual and monetary claims remain open. But those claims cannot be used as a reason to stop redevelopment indefinitely. The Society has prima facie shown prolonged failure to perform the main obligations. The members continue to suffer because of the delay. If the Respondent proves monetary loss and establishes its legal entitlement, it can seek appropriate relief in arbitration. The loss suffered by the members by remaining without redevelopment for several years cannot, however, be fully undone by a later monetary award.

59. The overall consideration of all these facts therefore leads me to the conclusion that interim protection should operate in favour of the Petitioner for protecting the Society Property and enabling the redevelopment to proceed. The final questions relating to validity of termination, damages, expenditure, contractual rights and monetary claims shall remain open for decision by the Arbitral Tribunal.

60. Accordingly, the following order is passed:

i. The respondent shall hand over peaceful and vacant possession of the society property, together with removal of its men, agents, representatives, machinery, equipment and material therefrom, to the petitioner within a period of four weeks from the date of this order.

ii. Upon handing over possession, the respondent, its partners, agents, representatives, servants, contractors, assigns or any person claiming through or under it shall not enter upon or interfere with the society property, except with the prior written consent of the petitioner or pursuant to an order passed by the arbitral tribunal or by a competent court.

iii. The respondent, its partners, agents, representatives, servants, contractors, assigns or any person claiming through or under it shall not create any third party rights, interest, encumbrance or charge in respect of the society property or enter into any agreement, arrangement or commitment with any third party in relation thereto.

iv. The respondent shall, within two weeks from the date of this order, disclose on oath by filing an affidavit before this court all third party rights, agreements, arrangements, commitments or interests, if any, created by it in respect of the society property. A copy of such affidavit shall be furnished to the petitioner.

v. The prayer of the petitioner for payment of Rs.29,56,00,000/- towards rent, brokerage and shifting charges is kept open for determination by the arbitral tribunal. no final finding is expressed by this court on the entitlement of either party to any monetary claim.

vi. It is clarified that the observations made in this order are prima facie and only for the purpose of deciding the interim reliefs sought in the present petition. all questions relating to the validity of the termination of the development agreement, the rights and obligations of the parties thereunder, the alleged breaches, expenditure incurred by the respondent, damages, monetary claims and all other disputes between the parties are kept open for adjudication by the arbitral tribunal.

vii. The parties state that they have agreed, by consent, to have their disputes adjudicated by a sole arbitrator, by consent of the parties, Mr. Aseem Naphade Advocate of this court, is appointed as the sole arbitrator to adjudicate upon all disputes and differences arising out of or in connection with the development agreement and the supplementary agreements executed between the parties.

viii. A copy of this Order will be communicated to the Learned Sole Arbitrator by the Advocates for the Applicant within a period of one week from today. The Applicant shall provide the contact and communication particulars of the parties to the Arbitral Tribunal along with a copy of this Order;

ix. The Learned Sole Arbitrator is requested to forward the statutory Statement of Disclosure under Section 11(8) read with Section 12(1) of the Act to the

Advocates for the Applicant so as to enable them to file the same in the Registry of this Court. The Registry of this Court shall retain the said Statement on the file of this Applicant and a copy of the same shall be furnished by the Advocates for the Applicant to the Advocates for the Respondent;

x. The Learned Sole Arbitrator is requested to forward the statutory Statement of Disclosure under Section 11(8) read with Section 12(1) of the Act to the parties within a period of two weeks from receipt of a copy of this Order;

xi. The parties shall appear before the Learned Sole Arbitrator on such date and at such place as indicated, to obtain appropriate directions with regard to conduct of the arbitration including fixing a schedule for pleadings, examination of witnesses, if any, schedule of hearings etc. At such meeting, the parties shall provide a valid and functional email address along with mobile and landline numbers of the respective Advocates of the parties to the Arbitral Tribunal. Communications to such email addresses shall constitute valid service of correspondence in connection with the arbitration;

xii. All arbitral costs and fees of the Arbitral Tribunal shall be borne by the parties equally in the first instance, and shall be subject to any final Award that may be passed by the Tribunal in relation to costs.

xiii. The parties are at liberty to raise before the learned sole arbitrator all their respective claims, counterclaims, defences and contentions, including the respondent's claim regarding expenditure allegedly incurred by it and the petitioner's claims towards rent, brokerage, shifting charges and other amounts.

xiv. The petition is accordingly disposed of in the above terms.

xv. There shall be no order as to costs.

(AMIT BORKAR, J.)