

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 7220 OF 2023

Veer Tower Cooperative Housing ...Petitioner
Society Ltd.

V/s.

Messers Bhadra Enterprises and Ors. ...Respondent

Ms. Pragya *i/b M/s Legal Vision for Petitioner.*

Mr. Yogesh Naidu *with Eden R. Seth, Sabiya Kazi and Ms. Khushbu Mota
for Respondent No. 1.*

Mr. Akash Rebello *(Through VC)for Respondent No. 2.*

Mr. Anoshak Daver *with Ms. Pratibha Rupnawar and Ms. Rajshree Dhole
i/b Samatva Legal Associates for Respondent No. 3.*

Mr. Santosh Mali *for Respondent Nos. 4 and 5/BMC.*

CORAM: SANDEEP V. MARNE, J.

DATED: 1 APRIL 2026.

P.C.:

1) The Petition challenges order passed by City Civil Court allowing the application filed by Defendant-Developer under Section 8 of the Arbitration and Conciliation of Act, 1996 (Arbitration Act) and referring the disputes to arbitration in terms of clause 15 of the

Agreement dated 31 December 2014. During pendency of the present Petition, it appears that the Defendant-Developer as well as Shree Dev Shashan Jain Shwetambar Murtijak Trust (**Trust**) filed applications under Section 11 of the Arbitration Act for appointment of the Arbitrator. By judgment and order dated 10 February 2026, this Court has held the Trust to be a veritable party to the arbitration agreement and has accordingly proceeded to appoint an Arbitrator for resolution of disputes and differences between the parties.

2) Ms. Pragya, the learned counsel appearing for Petitioner submits that the judgment and order dated 10 February 2026 passed by this Court has been challenged by the Petitioner before the Hon'ble Supreme Court. She accordingly prays for deferring the hearing of the present Petition.

3) The case thus presents a unique conundrum when an inquiry is already conducted by the City Civil Court about existence of valid arbitration agreement for adjudication of disputes and differences arising between the parties to the suit. Ordinarily, once Section 8 Court rules on existence of valid arbitration agreement, the remit of inquiry under Section 11 of the Arbitration Act would only be for appointment of Arbitrator if parties do not agree on the name. Whether fresh inquiry into existence of arbitration agreement can be conducted under Section 11 of the Arbitration Act after Section 8 court has already ruled on existence of valid arbitration agreement is something which Ms. Pragya questions and submits that this issue is raised before the Hon'ble Supreme Court in the pending SLP. She submits that the order dated 10

February 2026 passed in Section 11 proceedings would come in the way of determining correctness of the order passed by the City Civil Court in Section 8 proceedings.

4) In view of the above, hearing of the Petition is deferred till **4 May 2026.**

[SANDEEP V. MARNE, J.]