



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
ARBITRATION PETITION (L.) NO. 5382 OF 2026

Acme Housing Design LLP

... Petitioner

V/s.

Violet Monis & Ors.

...Respondents

Mr. M.M. Vashi, Senior Advocate with Ms. Panthi Desai i/b. M.P. Vashi & Associates, for the Petitioner.

Mr. Rakesh Pandey i/b. ALJ & Partners, for Respondent No.1.

Mr. Nirman Sharma i/b. Mr. Jayesh Mestry, for Respondent No.2.

Mr. Jeetendra Sachhdev (through V.C.) with Mr. Abubakar Patel i.b. JS Legal, for Respondent Nos. 3 to 5 and 7.

Mr. Mranal Mandhane, for Respondent No.8.

Mr. Gauraj Shah with Ms. Nilam Gupta i.b. Solicis JVPD, for Respondent No.9.

CORAM: SANDEEP V. MARNE, J.

DATED: 27 April 2026.

P.C.:

- 1) This is a Petition filed under Section 9 of the Arbitration and Conciliation Act, 1996 (**Arbitration Act**) seeking interim measures before commencement of the arbitral proceedings. Disputes and differences between the parties have arisen out of Development



Agreement dated 19 March 2025 and Supplementary Development Agreement dated 17 August 2025.

2) I have heard Mr. M.M. Vashi, the learned Senior Advocate for the Petitioner, Mr. Rakesh Pandey the learned counsel for Respondent No.1, Mr. Nirman Sharma the learned counsel for Respondent No.2, Mr. Jeetendra Sachhdev the learned counsel for Respondent Nos. 3 to 5 and 7, Mr. Mranal Mandhane, the learned counsel for Respondent No.8 and Mr. Gauraj Shah, the learned counsel for Respondent No.9.

3) It appears that the Society has total 36 members, out of whom, 33 members have participated in the redevelopment process and are willing to vacate possession of their respective flats. Out of those 3 flats, the reservation is only in respect of owner of one flat and in respect of the other two flats, there is no opposition to the redevelopment process as such.

4) Resistance by the members/occupiers of the three flats is holding up the entire redevelopment process. I have given anxious consideration to the issues sought to be raised by the members/occupiers of those three flats and the same are dealt with briefly as under:

- (i) In respect of Respondent No.1, it is claimed that there is open to sky area abutting her flat, which is being exclusively



used by her for the last 40 long years and she demands that the said area must be computed while granting Permanent Alternate Accommodation **(PAA)**. The developer and the society contend that what is being occupied by Respondent No.1 is merely platform, resulting out of elevational structure of the building which is not identified in the sanctioned development plan as a terrace. Accordingly, this Court called upon Mr. Pandey to produce sanctioned development permission issued by MCGM to determine the nature of the platform in possession of Respondent No.1. However, it appears that Respondent No.1 is unable to demonstrate before this Court that the area abutting the flat of Respondent No. 1 is sanctioned as a terrace in the sanctioned development plan. It appears that Respondent No.1 has already filed a Suit in the City Civil Court claiming rights in respect of the said area/platform. Respondent No.1 is free to prosecute the said suit. Till the Suit gets decided, redevelopment process cannot be withheld. In the event, Respondent No.1 succeeds in the Suit, she can seek appropriate damages / compensation from the developer / society as the case may be.

- (ii) In respect of Respondent No.2, she is not opposed to the redevelopment process as such. All that Respondent No.2 desires is purchase of an additional area of 100 sq.ft. Mr. Sharma has invited my attention to the letter dated 25



November 2023, under which the developer had offered members to purchase additional area at the discount of 10%. He submits that appointment of the developer was premised on the offer made vide letter dated 25 November 2023 under which the members were unconditionally entitled to purchase additional area at the offer of 10% discount. He however submits that the Development Agreement later incorporated a condition in Clause-6.1.3 which required minimum of 10 members of each building coming forward for purchase of additional area. It appears that by letter dated 23 October 2024, Respondent No.2 was informed by the developer that the additional area of 100 sq.ft. could be granted to her provided that 10 members of the society also agree to purchase the same. This is to ensure that the structure of the proposed building is not asymmetrical. Thus, there is no reason for the Petitioner-developer to single out Respondent No.2 for allotment of additional 100 sq.ft. area. The society has also opposed making out any exception to Respondent No.2 in terms of allotment of additional area. Mr. Sharma has invited my attention to distribution of flats on 19th floor of the building in support of his contention that there are flats admeasuring 1032.59 sq.mtrs upto 14th floor and that Respondent No.2 is willing to pay the differential amount for allotment of flat on any of those floors. Mr. Vashi opposes this submission by submitting that Respondent is allotted flat on the second floor and by paying discounted



amount for additional 100 sq.ft area, Respondent No.2 is actually trying to upgrade herself from second floor to 14th floor. To this, Mr. Sharma has also agreed to pay for the floor rise in respect of the 14th floor. However, Mr. Shah, the learned counsel appearing for the Respondent-Society strenuously opposes making any exception for Respondent No.2 submitting that the allotments to all the members is done by the society by following systematic method and that therefore Defendant No.2 alone cannot be shifted to higher floor. Mr. Vashi also submits that if an exception is made to Respondent No.2, other members will also demand flats on higher floors and the Petitioner-Developer will be left with sale component flats on the lower floors. Considering the above position, it is difficult to accede to the request of Respondent No. 2 at this juncture. If Respondent No.2 feels that any of her rights are violated on account of non-grant of 100% additional area while granting PAA, it will be open for her to exercise appropriate remedies in that regard.

- (iii) So far Respondent Nos.3 to 8 are concerned, it appears that there are disputes amongst them *qua* Flat No. 11 (*Gloria building*). It appears that no one is occupying Flat No.11. In my view, considering the disputes between Respondent Nos.3 to 8, it would be appropriate to park the amounts payable in respect of Flat no.11 in the Escrow Account till Respondent Nos.3 to 8 resolve their disputes. As and when construction



of the building is complete, Respondent Nos.3 to 8 can seek appropriate orders from the concerned Court for handing over possession of PAA in lieu of Flat No.11 (*Gloria building*).

5) Thus, the concerns relating to claims of the 3 flats are addressed above and therefore the redevelopment process of the Society need not be withheld. The IOD for the building has already been issued. The vacation notice is issued on 6 February 2026. As of now, pre-vacation formalities are going on. The three flats, in respect of which members/occupiers have concerns, are free to agitate their grievances before the appropriate forum. The subject matter of arbitration is redevelopment of society's building and the same is likely to be endangered on account of delay in commencement of the redevelopment. The subject matter of arbitration therefore needs to be preserved. Any delay in redevelopment of society's building would also affect the rights of other consenting members. It would therefore be necessary to make interim measures for directing vacation of flats by the members of three flats.

6) In view of the above, I proceed to pass the following order :

- (i) Pending arbitral proceedings and till making of the final Award there shall be interim measures in favour of the Petitioner in the following terms:
 - (a) Respondent Nos. 3 to 8 shall hand over possession of their respective flats on the dates



- when other members are required to vacate their respective flats as per the DA.
- (b) If Respondent Nos.1 to 8 refuse to vacate possession of their respective flats, Petitioner-Developer shall be entitled to recover the same from them with necessary police assistance.
- (c) The local police station shall provide necessary police assistance to the Petitioner-Developer for recovery of possession of flats from Respondent Nos.1 to 8.
- (d) As of now, execution of PAAA in respect of Flat No.11 (*Gloria Building*) be deferred till parties secure appropriate orders from the Civil Court about execution of PAAA. However, all amounts flowing out of redevelopment process *qua* Flat No.11 (*Gloria Building*) be deposited in the Escrow Account No. 09110100005400 in Model Co-operative Bank, Vashi Branch.
- (e) Respondent Nos.1 and 2 would be free to execute PAAA without prejudice to their rights and contentions.
- (f) In the event, Respondent Nos.1 and 2 refuse to execute PAAA with the Petitioner-Developer, all amounts flowing out of the redevelopment process *qua* their flats shall be deposited with the



society who shall proceed to invest the same in interest bearing deposits.

(g) As and when Respondent Nos.1 and 2 execute PAAA with the Developer, their respective amounts alongwith accrued interest be paid over to them by the Society.

(ii) The above arrangement shall be without prejudice to the rights and contentions of Respondent Nos.1 to 8 who shall be free to agitate their grievances in appropriate court of law. All questions relating to their grievances are expressly kept open.

(iii) In the event the Petitioner fails to commence arbitration within 90 days, the interim measures shall come to an end.

7) With the above directions, the petition is partly **allowed and disposed of.**

[SANDEEP V. MARNE, J.]

Note : The corrections are carried out in the appearance and paragraph-2 and line-8 of the order only. The rest of the order remains undisturbed.