



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
COMMERCIAL ARBITRATION PETITION (L) NO.11409 OF 2026

Konark Structural Engineers Pvt. Ltd.

...Petitioner

V/s.

Ganga Jamuna Milan Co-operative
Housing Society Ltd. and Ors.

...Respondents

Mr. Mutahhar Khan with *Mr. Manas Kotal & Ms. Vidhi Basrani i/b. M/s. Veritas Legal for the Petitioner.*

Ms Apurva Thipsay *i/b. Mr. Prashant Pawar for Respondent No.1.*

Mr. Akshay R. Pai with *Mr. Suryaheet N. Ravrane, Mr. Saharsh Sakhre i/b. Ms. Siddhi Bhosale for Respondent Nos.2 and 3.*

CORAM: SANDEEP V. MARNE, J.

DATED: 24 APRIL 2026.

P.C.:

1) The Petition is filed under Section 9 of Arbitration and Conciliation Act, 1996 (**the Arbitration Act**) seeking interim measures before commencement of the arbitral proceedings. The disputes and differences have arisen between the parties out of Development Agreement dated 6 January 2025.

2) The Society has total 12 members, out of whom 11 members have co-operated in the redevelopment process and have vacated the

possession of their respective flats. Only Respondent Nos.2 and 3, who hold one flat (Flat No.8) in the building, are opposing the redevelopment process.

3) Mr. Pai, the learned counsel appearing for Respondent Nos.2 and 3 submits that the Petitioner-Developer has failed to obtain Railway's NOC which is mandatory for execution of the project. He submits that the Petitioner also has obligations of execution of Power of Attorney as well as procuring TDR, which are pre-vacating obligations. That eviction of flats is illegally sought by the Petitioner even before the completing the pre-vacating obligations.

4) On the other hand, Mr. Khan, the learned counsel appearing for the Petitioner as well as Ms. Thipsay, the learned counsel appearing for the Respondent No.1-Society submit that securing Railway's NOC is not a part of pre-vacation obligation. They submit that as of now it is not very clear as to whether the NOC of Railways is necessary or not. However, by way of abundant caution, the Society has put an obligation on Petitioner to secure Railways' NOC.

5) It appears that Respondent Nos.2 and 3 have complained to the Registrar, Co-operative Society with regard to functioning of the Society. It appears that Respondent Nos.2 and 3 have already filed a Suit ventilating their grievance in respect of redevelopment process. They are free to agitate the pending Suit. However, pendency of the Suit cannot be a ground for not vacating possession of their flat and for delaying the redevelopment process. Respondent Nos.2 and 3 must accept the

decision taken by the majority members. Reference in this regard can be made to judgment of Division Bench of this Court in ***Pranav Constructions Limited V/s. Priyadarshini Co-operative Housing Society Limited and others***¹

6) In my view, therefore, it would be appropriate to make interim measures in favour of the Petitioner so as to ensure that redevelopment process is not delayed and subject matter of arbitration is preserved.

7) I accordingly, proceed to pass the following order:-

(i) Pending arbitration and till making of the final Award, there shall be interim measures in terms of following directions:-

(a) Respondent Nos.2 and 3 shall vacate possession of the Flat No.8 on or before 15 May 2026.

(b) In the event Respondent Nos.2 and 3 fail to vacate possession of the Flat, Petitioner shall be entitled to secure possession thereof with necessary police assistance. Local police station is directed to provide necessary police assistance for securing possession of the Flat No.8 from Respondent Nos.2 and 3.

1 Arbitration Appeal (L) No.20093 of 2025 decided on 14 July 2025.

(c) Respondent Nos.2 and 3 would be at liberty to execute Permanent Alternate Accommodation Agreement (PAAA). Upon execution of the PAAA, all financial benefits arising out of the redevelopment process shall be paid over to them.

(d) In the event, Respondent Nos.2 and 3 refuse to execute PAAA, all financial benefits flowing out of the redevelopment process shall be deposited with the Society and the Society shall invest the same in interest bearing deposits. As and when Respondent Nos.2 and 3 participate in the redevelopment process and execute PAAA, the Society shall pay over the invested amount alongwith accrued interest to them.

(ii) The interim measures shall come to an end if Petitioner fails to take steps for commencement of arbitral proceedings within a period of 90 days.

8) With the above directions, the Petition is **disposed of**.

[SANDEEP V. MARNE, J.]