

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

IN ITS COMMERCIAL DIVISION

COMMERCIAL ARBITRATION PETITION (L) NO. 18941 OF 2026

Alag Property Constructions

... Petitioner

Versus

The Mulund Endeavor Co-op. Housing Society Pvt. Ltd. ... Respondent

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Mr. Surel Shah, Senior Advocate alongwith Mr. Bhavik Lalan and Mr. Sanjay Shinde, Advocate for the Petitioner.

Ms. Mehak Shah alongwith Mr. Som Sinha, Ms. Divya Vishwanath and Mr. Srinivasa Varadan instructed by Som Sinha & Associates, Advocate for the Respondent.

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CORAM : ABHAY AHUJA, J.

DATE : 11 JUNE 2026

PC. :

1. This matter was kept back in the morning session as the learned Counsel leading the Advocate for the Respondent was in another Court.

2. When the matter is called out in the afternoon session, Ms. Shah, learned Counsel appearing for the Respondent-Society submits that the matter be listed before the regular Bench.

3. Mr. Surel Shah, learned Senior Counsel, appearing for the Petitioner submits that the 22nd day will commence day after tomorrow, after which as per the order of the Arbitral Tribunal, the private Receiver will stand appointed and that it is in view of this urgency that

this alternate Bench has been moved in view of the non-availability of the regular Bench.

4. Mr. Surel Shah, learned Senior Counsel, draws this Court's attention to paragraph 24 of the order dated 23rd May 2026 passed under Section 17 of the Arbitration and Conciliation Act, 1996.

5. Ms. Mehak Shah, learned Counsel, appears for the Respondent-Society and submits that the Respondent-Society has e-filed an application seeking discontinuation of the Court Receiver who had earlier taken symbolic possession of the subject property and until the said application is numbered, served, heard and decided, the private receiver appointed by the arbitral tribunal cannot take possession, submitting that earlier the Court Receiver of this Court had taken symbolic possession of the subject property.

6. A perusal of paragraph 24 of the order dated 23rd May 2026 passed under Section 17 of the Arbitration & Conciliation Act, 1996 reveals that the Arbitrator has granted interim measures of protection, whereby the Respondent has been directed to peacefully vacate and quit the subject property and to let the claimant to re-enter the same no more than 21 calendar days from 23rd May 2026. It is not in dispute that the 21 days' period ends on 12th June 2026. It is for this reason that this alternate Bench has been moved for urgent reliefs. However,

paragraph 24(c) of the said order which is quoted as under, clearly directs that subject to discontinuation of the Court Receiver, on the 22nd day from 23rd May 2026, the private receiver shall stand appointed as Tribunal Receiver of the subject property :

(c) Subject to the discontinuation of the Court Receiver, on the 22nd calender day from today, Ms. Rashmi Raghavan, Advocate, shall stand appointed as receiver of the Subject Property (now, “Tribunal Receiver”).

7. Ms. Mehak Shah has submitted that the application seeking discontinuation of the Court Receiver has been e-filed, which means that the application is yet to receive a lodging number.

8. Upon a query from this Court to Mr. Surel Shah, learned Senior Counsel, as to whether copy of the said Application has been received, the answer is in the negative. Ms. Mehak Shah submits that once a lodging number is obtained service of the said application seeking discontinuation of the Court Receiver would be effected.

9. If that be the case then it is questionable whether or not on the 22nd day the private/tribunal receiver can stand appointed or take possession as the Court Receiver who statedly has taken symbolic possession is and would yet be in possession of the subject property.

10. Accordingly, in my view, there is no case for urgency made out. Therefore no order.

11. However, at the joint request of the learned Counsel appearing in the matter, list on **15th June 2026**.

(ABHAY AHUJA, J.)