

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS COMMERCIAL DIVISION**

**INTERIM APPLICATION (L) NO. 18821 OF 2024
IN
COMMERCIAL ARBITRATION PETITION (L) NO. 18660 OF 2024**

Vijaykamal Properties Private Limited ... Applicant

Vs.

Charkop Kandivali Ekta Nagar Cooperative
Housing Society Limited ... Respondent

**WITH
INTERIM APPLICATION (L) NO.19723 OF 2024
IN
COMMERCIAL ARBITRATION PETITION (L) NO.18660 OF 2024
WITH
COMMERCIAL ARBITRATION PETITION (L) NO.20323 OF 2024**

Mr. Dinyar Madon, Senior Counsel a/w Rajiv Narula and Mehek Chowdhary
i/by Jhangiani, Narula and Associates for the Applicant/Original Petitioner.

Mr. Zal Andhayrujina a/w Sanjay Kadam, Aseem Naphade, Soham Salvi, Netra
Jagtap i/by Kadam & Co. for the Respondent-Society.

Mr. Ankit Lohia a/w Pratik Amin, Ayesha Qureshi i/by Pratik Amin Associates
for the Applicant in IAL/19723/2024.

Mr. Sunil J. Dable, Committee Member of the Society is present.

CORAM : ARIF S. DOCTOR, J.

DATE : 2ND AUGUST 2024

P.C. :

1. When the matter was called today, one Mr. Sunil J. Dable appeared and informed the Court that he was a member of the Managing Committee of Charkop Kandivali Ekta Nagar Cooperative Housing Society Limited (*‘the Society’*) and that the Managing Committee of the Society had not authorised M/s. Kadam & Company to appear in the matter today. He submits that 11 out of 16 members of the Managing Committee had opposed the appointment of the present Advocates and that the Secretary of the Society was acting unilaterally.

2. Mr. Andhayrujina, Learned Counsel instructed by M/s. Kadam & Company, who today appears on behalf of the Society, on instructions from the Secretary of the Society, who is present in Court today, refused this contention and submitted that the Managing Committee has duly passed a Resolution instructing M/s. Kadam & Company to appear in the matter. Mr. Andhayrujina also takes serious exception to the fact that an individual member of the Society can today oppose the hearing of the present matter in the manner which is being done. He submits that it is well settled that in society matters, it is the view of the majority that is to be seen and it is this majority which he submits he represents.

3. Since Mr. Andhayrujina has today however unable to produce the Resolution of the Managing Committee, he seeks a short date to produce the same.

4. At this stage, Mr. Madon, Learned Senior Counsel appearing on behalf of Vijaykamal Properties Private Limited (*‘the Developer’*) submits that even the Minutes of the meeting, in which the said Resolution was passed, be produced by Mr. Andhayrujina’s client.

5. At this stage, Mr. Naphade, who is assisting Mr. Andhayrujina, as an officer of the Court, points out that he was appearing in the arbitration proceedings, in which the impugned order came to be passed, which went on for several months. He informs the Court that Mr. Sunil J. Dable, who today has appeared in Court and raised this objection as noted above, was personally present in each of the hearings before the Learned Arbitrator, where the same Advocates, who are presently appearing on behalf of the Society were also appearing in the arbitration proceedings. He points out that Mr. Sunil J. Dable did not once during the course of arbitration proceedings raise a single grievance about the authority of the Advocates to appear on behalf of the Society.

6. Given what has transpired in Court today, let an Affidavit be filed on behalf of the Society on the next date bringing on record (i) Resolution and (ii) relevant Minutes of the meeting. Also, let an Affidavit be filed by Mr. Sunil J. Dable, who is present in Court today, to support his contention that out of the Committee of 16 members, 11 members have opposed the appointment of the present Advocates for the Society and that the decision was taken unilaterally by the Secretary.

7. Stand over to 8th August 2024.

8. In view of what has transpired in Court today, Mr. Andhayrujina, Learned Counsel submits that he is therefore unable to continue the statement, which was operating till today.

9. Mr. Madon, Learned Senior Counsel then submits that an order be passed directing parties to maintain status quo till the next date.

10. Given what has transpired today I deem it fit to direct parties to maintain status quo *qua* possession of the said plot till the next date.

(ARIF S. DOCTOR, J.)