



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS COMMERCIAL DIVISION
COMMERCIAL ARBITRATION PETITION NO. 559 OF 2017

Mulund Raviraj CHSL. ... Petitioner

Versus

Rupji Constructions and Anr. ... Respondents

ALONG WITH
CHAMBER SUMMONS NO. 217 OF 2018
WITH
NOTICE OF MOTION NO. 688 OF 2018
WITH
CHAMBER SUMMONS NO. 763 OF 2019
WITH
CHAMBER SUMMON NO. 234 OF 2019
WITH
CHAMBER SUMMONS NO. 45 OF 2019
WITH
NOTICE OF MOTION NO. 350 OF 2019
IN
COMMERCIAL ARBITRATION PETITION NO. 559 OF 2017

Mr.A.S.Potnis for Respondent No. 1.
Ms.A.Wandrewala i/b. VBA Legal for Intervenor.
Mr.Sandeep Bane for the Applicant in CHSCD No. 763 of 2019.
Mr.D.S.Shingade for MCGM.
Mr.L.S.Ahire, Executive Engineer (BP) ES-II, present in person.
Mr.J.C.Dusane, AE (BP) S & T, present in person.
Mr.C.C.Jage, AE (BP) present in person.
Mr.Madhukar Rupji a/w. Mr. Tejal Rupji, produced from prison.



CORAM : S.J. KATHAWALLA, J.
DATED : 4TH SEPTEMBER, 2019
(IN CHAMBERS)

P.C.:

1. Pursuant to the Order dated 27th August, 2019, Mr. Jage, Assistant Engineer (BP) is present in Court. As regards C Wing of Raigad Nagar Cooperative Housing Society Limited, Mr. Jage informed the Court that the full OC qua rehab portion is issued. As far as A and B Wings of Raigad Nagar Cooperative Housing Society Limited is concerned, the OC is not issued since certain conditions are not complied with till date. He further states that within a period of two weeks from today, he will provide to this Court, a list of the requirements necessary to be complied with by the Rupji's to the Corporation to issue OC with regard to the A and B Wings. Upon receipt of a list of requirements, Mr. Madhukar Rupji and Mr. Tejal Rupji may appoint an Advocate or send their representative, who will attend the office of BMC and satisfy Mr. Jage that the requirements are complied with. The learned Advocate appearing for BMC shall also inform the Court whether Rupji's are entitled to more than 2.5 FSI qua the said project. Mr. Jage states that while approving plinth CC, Rupji's were allowed to pay premium in four installments. However, Rupji's paid only one installment and the balance installments payable with interest as on date would be Rs.3 Crores. He further states that Rupji's will have to purchase the balance FSI / TDR from the Government / market. Mr. Jage further states that the said plot is a



municipal plot and therefore the BMC will have to decide whether Rupji's should be given additional FSI on payment of premium. However, Mr.Jage is not aware of the amounts payable towards premium payable to other departments like PCO, assessment, etc.

2. As regards the Mulund Raviraj CHSL., Mr.Dusane, Assistant Engineer states that the plinth CC is granted. However, the plinth is not completed. He states that according to DCR 34, Rupji's are entitled to get 2.4 FSI plus fungible FSI subject to Society's consent.

3. The Petitioner shall keeping in mind the above facts. submit necessary proposal to the BMC. Rupji's are also allowed to submit appropriate proposal to the BMC.

4. The Superintendent of Prison, Taloja Prison, is directed to produce Mr.Madhukar Rupji and Mr.Tejal Madhukar Rupji before this Court on 18th September, 2019 at 05.00 p.m. in Chambers. The Superintendent of Prison, Taloja, shall ensure that Mr.Madhukar Rupji and Mr.Tejal Madhukar Rupji along with escort shall leave Taloja Prison on 18th September, 2019 by 12.00 noon so that no delay will be caused in bringing them to this Court by 05.00 p.m.

5. Stand over to 18th September, 2019 at 5.00 p.m. in Chambers.

(S.J.KATHAWALLA,J.)