

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

COMMERCIAL ARBITRATION PETITION NO.188 OF 2025

Jayantilal Punshibhai RitaPetitioner

Versus

Narang And Mahaveer Developers LLP ...Respondent

WITH

COMMERCIAL ARBITRATION PETITION (L) NO.36832 OF 2024

Chandanmal Jasraj ParmarPetitioner

Versus

Narang And Mahaveer Developers LLP ...Respondent

Mr. Darshit K. Jain *i/b. Mrs. Divya D. Jain & Udit Raghuwanshi, Advocate for Petitioner.*

CORAM: SOMASEKHAR SUNDARESAN, J.

DATE : JULY 28, 2025

ORDER :

1. These Petitions essentially are appeals under Section 37 of the Arbitration and Conciliation Act, 1996 (*“the Act”*) impugning an Order dated October 8, 2024 (*“Impugned Order”*) passed by the Learned Arbitral Tribunal under Section 17 of the Act.

2. The essential grievance of the Petitioner is two-fold, namely, (i) that the Learned Arbitral Tribunal has left it to the Petitioner to approach this Court on matters of contempt without taking a view in

the matter; and (ii) that the prayer for appointing a Receiver to take over the project and complete it has been repelled although the project is at a standstill for the last few years.

3. Having heard Learned Counsel for the Petitioner and having examined the record with his assistance, I am constrained by the sheer absence of any representation on behalf of the Respondent. Multiple opportunities were given to the Respondent to enter appearance and present his say. Purely as a last chance, on June 26, 2025, the matter was further stood over to July 10, 2025 asking the advocates for Petitioner to effect service once again and making it clear that if the Respondent continued to remain absent, the Court would proceed *ex parte* in the matter and decide one way or the other.

4. Since none has appeared for the Respondent either on July 10, 2025 and today, I am constrained to deal with this matter in terms of the Order dated June 26, 2025, taking the matter up finally in the absence of the Respondent.

5. It is seen from the Impugned Order that the two facets were considered by the Learned Arbitral Tribunal – that of contempt and the appointment of the Court Receiver. As regards the observations on the contempt jurisdiction, in my opinion, the Learned Arbitrator has effectively given leave to the Petitioner to take up appropriate proceedings for contempt before this Court. Therefore, in my view,

rather than giving ground for the Petitioner being aggrieved by the Impugned Order in relation to the issue of contempt, the Petitioner has been granted liberty to file an appropriate and specific Contempt Petition setting out in specific detail the facets on which the contempt jurisdiction is sought to be invoked.

6. As regards the appointment of the Receiver, it is noteworthy that the Learned Arbitral Tribunal had passed the Impugned Order way back on October 8, 2024, when the Learned Counsel for the Respondent were available to assist the Learned Arbitral Tribunal and made submissions on the relevance of not appointing a receiver. The Learned Arbitral Tribunal seems to have specifically taken note of the contention that the Petitioners, who are but two of the stakeholders in the project, having been tenants who vacated their premises in lieu of getting units on an ownership basis in the redeveloped building, while there could be other stakeholders whose interests would also get affected by the receivership.

7. Having examined the Impugned Order, it is clear that what has weighed with the Learned Arbitral Tribunal essentially is that the project in question contains a number of flats which are not subject matter of arbitration and just three tenants are before the Learned Arbitral Tribunal. Appointment of a Receiver to preserve the property that forms subject matter of the arbitration agreement would, in

Learned Tribunal's opinion, have implications for other stakeholders who were not before the Learned Arbitral Tribunal.

8. While the Learned Arbitral Tribunal is correct in its observations, one can also not lose sight of the fact that as of now i.e. at the end of July 2025, there is no change whatsoever in the status of the project. Likewise, it is the contention of the Learned Counsel for the Petitioner that just as none has been appearing for the Respondent in these proceedings, even in the arbitral proceedings the Respondent is now unrepresented and the matter has proceeded *ex parte*.

9. Therefore, at this stage, it may be relevant to revisit the reasoning adopted by the Learned Arbitral Tribunal. The Learned Arbitral Tribunal did not find the jurisdiction vested in it to appoint an external authority like the Court Receiver and that too when the other stakeholders would be affected by such a decision who are not before the Learned Arbitral Tribunal.

10. Considering the state of affairs with the project and the wider scope of power that is available to a Court, purely as a first step, the Learned Court Receiver of this Court is appointed to take charge of the project and engage with the Petitioners to examine as to how the project could be taken over and completed. The Court Receiver shall take stock, examine who were the architects engaged with the Municipal Authorities and prepare a report on the potential for taking

over the project and developing it in consultation with the Petitioners and other identically placed parties.

11. However, since other stakeholders are not before this Court (indeed even the parties to the proceedings are not appearing before this Court), the effect of this order is deferred by a period of eight weeks from the upload of this Order on the Court's website, to enable any other party whose interest would be affected by a Court Receiver taking over the project to be able to file an application before this Court and make submissions on whether or not it is advisable to have a Court Receiver supervise the redevelopment going forward.

12. The approach in this regard is a modified approach of what weighed with a Learned Single Judge in a similar situation, as expressed in an order dated January 30, 2018 in Arbitration Petition No.1048 of 2016. The Petitioners are also directed to issue a public notice about this order having been passed and prominently display a notice of this development pursuant to this particular order, so that any other party who may be interested in the same redevelopment project would be able to address this Court before the next date.

13. With the aforesaid directions, stand over to ***September 22, 2025***.

14. These Petitions are stood over by eight weeks from now to enable any other interested party to enter appearance and address whether the

Court Receiver taking over the project and running it in consultation with these stakeholders would be a matter that they would support or oppose.

15. Meanwhile, the arbitral proceedings shall continue on its own merits without anything in this order influencing a decision on merits in the proceedings.

16. An affidavit shall be filed by the Petitioner before the next date demonstrating and articulating how wide publicity of this order was given to the stakeholders. Such affidavit shall be filed at least two weeks before the next date.

17. All actions required to be taken pursuant to this order shall be taken upon receipt of a downloaded copy as available on this Court's website.

[SOMASEKHAR SUNDARESAN, J.]