AGK

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

COMM ARBITRATION PETITION (L) NO.19177 OF 2026

Rishabraj Estate Developers Pvt. Ltd.,
a company incorporated under the provisions of the Companies Act 2013, having its registered office at 103, Jai Tirth, Daulat Nagar, Road No.10, Borivali (East), Mumbai 400 006 ... **Petitioner**

Vs.

Heeramani Ratan Cooperative Housing Society Limited, a cooperative housing society registered under the provisions of the Maharashtra Cooperative Housing Societies Act, 1960, having its registered office at Bangur Nagar, Goregaon (West), Mumbai 400 104 ... **Respondent**

Mr. Mayur Khandeparkar with Mr. Rashmin Khandekar, Mr. Pranav Nair, Ms. Humera Syed, Mr. Naman Gupta, and Mr. Omkar Mendarkar i/by Mr. Bishwajeet Mukherjee for the petitioner.

Mr. Girish Godbole, Senior Advocate with Mr. Aseem Naphade, Mr. Ameet Mehta, Ms. Pratima Soundalkar, and Ms. Aditi Parwal i/by Solicis Lex for the respondent.

CORAM : AMIT BORKAR, J.

RESERVED ON : AUGUST 5, 2026.

PRONOUNCED ON : AUGUST 7, 2026

JUDGMENT:

1. The petitioner has filed this arbitration petition under Section 9 of the Arbitration and Conciliation Act, 1996. By filing this petition, the petitioner is asking the Court to grant temporary protection and necessary interim reliefs till the Arbitral Tribunal is constituted and starts functioning.

2. According to the petitioner, the dispute started in the following manner. On 19 December 2022, the Society published a public notice in the Times of India and Maharashtra Times newspapers inviting bids and offers from different developers for redevelopment of the property. In January 2023, the petitioner submitted its tender documents along with the required earnest money deposit to the Society. Thereafter, on 17 July 2023, the Society again sent an email asking the petitioner to improve its offer. Accordingly, on 20 August 2023, the petitioner submitted its final offer. On the same day, in the Special General Body Meeting, the members of the Society approved the petitioner as the preferred developer and granted redevelopment rights in its favour. Later, on 19 September 2023, the Society issued a Letter of Intent to the petitioner recording the understanding arrived at between both sides. Thereafter, the Society started the procedure required under Section 79A of the Maharashtra Co-operative Societies Act. On 21 September 2023, the petitioner sent by email the general list of documents and information required for completing the process under Section 79A. Thereafter, a Special General Body Meeting was held on 19 November 2023 in the presence of the Authorized Officer, and the members of the Society formally appointed the petitioner as the developer. After this, on 6 December 2023, the petitioner forwarded the draft Development Agreement to the Society. On 6 March 2024, physical measurement of the area occupied by every member of the Society was carried out. Later, on 6 June 2024, after considering the suggestions given by the members, the petitioner forwarded two sets of tentative typical plans to the Society. Thereafter, by communication dated 17 October 2024, the Society informed the petitioner about certain changes suggested by the members and informed that some members had decided to purchase additional area.

3. According to the petitioner, after one year, on 26 December 2024, the Society sent a revised draft of the Development Agreement. After examining the same, the petitioner revised the draft and sent it back to the Society on 17 January 2025. Thereafter, on 5 May 2025, the Society proposed a meeting to finalize the Development Agreement and to proceed with the redevelopment work. The petitioner has stated that in the General Body Meeting held on 20 April 2025, the Society resolved to change the redevelopment scheme from Regulation 33(11) to Regulation 33(20)(B) of the DCPR, 2034 and approved changes in the tentative revised plans. Thereafter, on 8 May 2025, a joint meeting was held and the finalized draft of the Development Agreement was shared with the respondent. However, according to the petitioner, even after the draft was finalized, the respondent continued asking for changes. The petitioner accepted those changes and incorporated the required revisions on 30 July 2025.

4. The petitioner has stated that on 4 April 2026, the Society forwarded what was described as the final draft of the Development Agreement for execution between the parties. On 8 April 2026, the petitioner conveyed its in-principle approval to the draft while raising only two reservations. Thereafter, on 9 April 2026, the advocates for the Society forwarded another final draft of the Development Agreement, which was fully acceptable to the petitioner. However, according to the petitioner, before the agreement could be approved and executed, the Society informed it on 17 April 2026 that some members had demanded that the redevelopment should be carried out jointly with the adjoining Bhanumati Society. The petitioner states that since the agenda of the forthcoming meeting was only to approve the Development Agreement and to avoid any obstacle in the redevelopment project, it submitted another improved offer on 18 April 2026. Even then, on 19 April 2026, the Society passed a resolution to explore cluster redevelopment with the adjoining Bhanumati Society under Regulation 33(9) of the DCPR, 2034 by inviting offers from other developers. Thereafter, on 6 May 2026, the Society unilaterally decided to keep the earlier redevelopment proposal in abeyance. According to the petitioner, these developments have led to the filing of the present petition.

5. Mr. Khandeparkar, learned Advocate appearing for the petitioner, submitted that the petitioner is entitled to the interim reliefs claimed because there was a concluded and binding contract between the petitioner and the respondent Society. To support this submission, he relied upon different clauses of the tender document published by the Society on 19 December 2022. He referred to Clauses 4, 6, 7, 15, 21, 5.7, 8.2, 8.3, 8.5, 8.6, 8.9, 8.10, 9.1, 9.1.16, 10.15, 10.30, 10.31 and 10.32. According to him, these clauses define the rights, duties and obligations of both parties and together form a complete contract between them.

6. Learned counsel submitted that in the affidavit in reply, or at any other stage, the respondent has never stated that any essential condition of the contract was missing from the final draft of the Development Agreement supplied by the Society to the petitioner. According to him, merely because the Development Agreement was not signed, it cannot be said that there was no concluded contract between the parties. He submitted that the petitioner had been selected as the developer by the General Body in its meeting dated 20 August 2023, and thereafter the Society issued a Letter of Intent in favour of the petitioner on 19 September 2023. He pointed out that in the Special General Body Meeting held on 19 November 2023, the members formally selected and appointed the petitioner as the developer for redevelopment of the Society. He relied upon the resolution passed in the Special General Body Meeting dated 20 April 2025, wherein the Society decided to change the redevelopment scheme from Regulation 33(11) to Regulation 33(20)(B) of the DCPR, 2034 and approved the revised tentative plans.

7. Learned counsel submitted that on 22 April 2024, the petitioner paid a sum of Rs.22,50,000/- to the Society as the full and final security deposit in connection with the redevelopment project. He submitted that on 2 May 2025, the Society proposed a meeting for finalizing the Development Agreement and for taking the redevelopment process ahead. According to him, several meetings thereafter took place between the parties. , on 9 April 2026, the advocate representing the Society forwarded the final draft of the Development Agreement, and the said draft was fully acceptable to the petitioner.

8. Learned counsel submitted that after receiving the final draft, the petitioner contacted the Chairman of the Society to the steps in the redevelopment process. The petitioner was informed that the final approval of the General Body would be obtained in the meeting scheduled on 19 April 2026. However, before that meeting could take place, on 17 April 2026, the Society informed the petitioner that certain members had demanded that the redevelopment should be carried out jointly with the adjoining Society by adopting the cluster redevelopment scheme. The Society urgently called upon the petitioner to submit its offer for such joint redevelopment.

9. Learned counsel then invited my attention to the Letter of Intent dated 19 September 2023. He particularly relied upon Clause 4 thereof, which provided that the redevelopment proposal was only for the standalone redevelopment of the respondent Society and that the developer would not be permitted to amalgamate the Society's plot with any neighbouring plot unless prior written permission of the Society and an appropriate resolution of the Special General Body were obtained. According to him, although there was no such original proposal, the petitioner still submitted its offer even for joint redevelopment in order to satisfy the Society. However, without assigning any reason, the General Body, in its meeting held on 19 April 2026, resolved that since the proceedings under Section 79A had been completed with the required two thirds majority, the petitioner could not be terminated at that stage because there was no two thirds majority in favour of terminating its appointment. At the same time, the General Body resolved to explore the possibility of joint redevelopment with the neighbouring Society and, till that exercise was completed, decided to keep the standalone redevelopment of the respondent Society on hold.

10. Learned counsel submitted that the petitioner has paid around Rs.50 lakh to the Society. He pointed out that out of this amount, Rs.22.50 lakh was otherwise payable only after execution of the Development Agreement. However, the petitioner voluntarily paid that amount even before the agreement was executed, which according to him shows the petitioner's commitment to the project. He submitted that the Society has never passed any resolution terminating the petitioner's appointment or contract. According to him, unless the contract is lawfully terminated, the Society cannot simply keep the redevelopment project on hold. He submitted that the Society has nowhere alleged that the petitioner has committed any breach of the tender conditions or any contractual obligation. Learned counsel pointed out that the tentative building plans had been approved by the General Body and only their sanction by the Planning Authority was awaited. According to him, the payments made by the petitioner and the conduct of both parties establish consensus between them. He relied upon the email dated 9 April 2026 sent by the Society through its advocate forwarding the final draft of the Development Agreement along with both the track changes version and the clean copy. According to him, this demonstrates that no terms remained to be negotiated between the parties. He therefore submitted that the Development Agreement contained all the material and necessary conditions which had earlier been approved by the General Body while accepting the tender conditions.

11. Learned counsel submitted that Clause 3 of the Letter of Intent records the important terms of the transaction, including the representations and warranties given by the Society, which were accepted by the petitioner. According to him, acting upon those assurances, the petitioner proceeded with the redevelopment work relating to the respondent Society. He pointed out that the Letter of Intent provides that the parties would execute and register the Development Agreement as well as an irrevocable Power of Attorney and that both documents would continue together and come to an end together. He submitted that under Clause 6 of the Letter of Intent, the petitioner had agreed to provide an additional 47% carpet area to the members. According to him, by issuing the Letter of Intent, the Society had selected the petitioner as its preferred developer and had declared that it would complete the formalities required under Section 79A at the earliest. Learned counsel, therefore, submitted that once the General Body had approved the tender conditions and had selected the petitioner as the developer, any subsequent approval of the final Development Agreement by the General Body was only a formal or ministerial act and not a fresh decision affecting the rights of the parties.

12. Learned counsel lastly invited my attention to Clause 10.30 of the tender document and submitted that the arbitration clause is couched in very wide terms. According to him, it covers every dispute arising between the parties in connection with the tender contract or with anything done or omitted to be done under that contract. He submitted that the Letter of Intent was issued in pursuance of the tender conditions and, therefore, it forms part of the same contractual arrangement. Consequently, the present dispute is governed by Clause 10.30. He submitted that under Clause 10.31, termination of the contract is permissible only in the manner provided therein. Since the Society has neither alleged any breach of contract nor followed the procedure for termination, it could not have unilaterally decided to keep the redevelopment project on hold.

13. In support of his submissions, learned counsel placed reliance upon the decisions in *Kollipara Sriramulu (Dead) by his legal representative vs. T. Aswatha Narayana (Dead) by his legal representatives & Others*, 1968 SCC OnLine SC 87; *Suresan Nair T.S. & Others vs. Travancore Devaswom Board, represented by its Secretary & Others*, 2021 SCC OnLine Ker 3284; *Trimex International FZE Limited vs. Vedanta Aluminium Limited*, (2010) 3 SCC 1; *and Rajawadi Arunodaya Co-operative Housing Society Limited vs. Value Projects Private Limited*, 2021 SCC OnLine Bom 9572.

14. On the other hand, Mr. Godbole, learned Senior Advocate appearing for the respondent Society, opposed the petition. He invited my attention to the communication dated 18 April 2026 issued by the petitioner. He pointed out that in the said communication, the petitioner had stated that the draft Development Agreement had been finalized with the Managing Committee of the Society and that it would thereafter be placed before the General Body for its approval and thereafter for execution and registration. Relying upon this statement, learned Senior Counsel submitted that under Section 72 of the Maharashtra Co-operative Societies Act, 1960, the General Body is the supreme authority of a co-operative society. According to him, approval of the final Development Agreement is an important policy decision which can be taken only by the General Body and not by the Managing Committee.

15. Learned Senior Counsel submitted that execution of the Development Agreement and undertaking redevelopment are the most important decisions for a housing society because the main object of such a society is to provide housing to its members. According to him, such an important decision cannot be finalized only by the Managing Committee. It necessarily requires approval of the General Body. He therefore submitted that since the General Body never approved the final Development Agreement, no concluded contract came into existence between the petitioner and the respondent Society.

16. Learned Senior Counsel argued that the ordinary principles applicable to contracts between two private parties cannot be applied in the same manner to contracts entered into by a co-operative housing society. According to him, the affairs of a co-operative society are governed by the provisions of the Maharashtra Co-operative Societies Act, the Rules and the Bye-laws. Therefore, the question whether there is a concluded contract has to be examined in the light of those statutory provisions.

17. Learned Senior Counsel submitted that mere issuance of a Letter of Intent does not by itself create a concluded contract. He invited my attention to Clauses 10.19 and 10.20 of the tender conditions and submitted that those clauses require execution of the Development Agreement as well as the Power of Attorney. According to him, unless both these documents are executed, no concluded contract can be said to have come into existence. He relied upon Clause 19 of the tender conditions, which gives power to the Society to change the terms and conditions of the tender. He submitted that the same clause states that the tender is only an expression of interest, that the conditions mentioned therein are broad and not exhaustive, and that the redevelopment agreement, once executed, would supersede all the tender conditions.

18. Learned Senior Counsel then invited my attention to Clause 8.2(E) of the tender conditions. He submitted that under this clause, the successful bidder is required to execute the Development Agreement within three months from the date of the Letter of Intent on terms mutually agreed between the parties, including the conditions contained in the bid document. He relied upon Clause 8.2(h), which provides that the proposed building plans must be approved by the Society, and thereafter those approved plans along with loaded TDR are to be submitted by the developer to the Municipal Corporation for sanction as required. He referred to Clause 9.1, which defines redevelopment to include not only the bid documents and related expenses but the formal agreement to be executed between the Society and the developer together with all documents referred to therein, including the tender conditions, specifications, schedule of quantities and the instructions issued by the Society or its authorized officer from time to time.

19. Learned Senior Counsel relied upon the email dated 9 April 2026 sent by the respondent Society to the petitioner, by which the final draft of the Development Agreement was forwarded. However, he pointed out that every page of the said draft carried a note stating that it was a "without prejudice draft for discussion purpose only." According to him, this shows that the document was only a draft prepared for discussion and negotiations and was not intended to create any binding agreement. He therefore submitted that forwarding such a draft was only one step in the process of entering into a contract and did not result in a concluded contract.

20. Learned Senior Counsel submitted that even if the petitioner's case is accepted that its contract was wrongfully terminated, the petitioner may at the highest claim damages in accordance with law, but cannot seek specific performance of the alleged contract. He invited my attention to the affidavit in reply filed by the respondent Society, wherein it has been stated on oath that the amount of Rs.50 lakh paid by the petitioner would be immediately refunded. According to him, merely because Clause 10.30 of the tender document contains an arbitration clause, it does not mean that every dispute between the parties falls within its scope. He submitted that the present dispute travels beyond the tender conditions and, therefore, cannot be treated as one arising under Clause 10.30.

21. Learned Senior Counsel relied upon the definition of "transaction" contained in the Letter of Intent dated 19 September 2023. He pointed out that Clause (b) thereof provides that the parties shall endeavour to execute and register the Development Agreement, an irrevocable Power of Attorney, and such other documents as may be necessary for completing the transaction within the time mutually agreed between the Society and the developer. According to him, it is an admitted position that no irrevocable Power of Attorney has ever been executed by the Society in favour of the petitioner. He therefore submitted that one of the essential requirements contemplated by the Letter of Intent remains unfulfilled, and consequently no concluded contract came into existence between the parties.

22. In support of his submissions, learned Senior Counsel placed reliance upon the decisions in *Kalpataru Properties Pvt. Ltd. vs. Majithia Nagar CHS Limited*, 2014 SCC OnLine Bom 984; *Maharashtra State Electricity Distribution Company Limited & Ors. vs. R.Z. Malpani*, 2026 SCC OnLine SC 553; *Bharat Sanchar Nigam Limited vs. Telephone Cables Limited*, (2010) 5 SCC 213; *Kalpataru Limited vs. Middle Class Friends Co-operative Housing Society Limited*, 2021 SCC OnLine Bom 5564; *Kher Nagar Sai*

Prasad CHS Building No.2 vs. Pittie Antariksh GRL Private Limited, Commercial Appeal (L) No.9061 of 2024, decided on 25 April 2025; *and Sunteck Realtors Private Limited vs. Bandra Sea Breeze Apartment CHS Limited, Commercial Arbitration Petition (L) No.30352 of 2025, decided on 6 October 2025.*

REASONS AND ANALYSIS:

23. The main point which requires consideration is whether there came into existence concluded and binding contract between the petitioner and the respondent Society, so that the petitioner becomes entitled to interim protection under Section 9 of the Arbitration and Conciliation Act, 1996.

24. There is no dispute that the respondent Society invited tenders for redevelopment. It is not disputed that the petitioner submitted its bid and thereafter came to be selected as the preferred developer. It is not disputed that the Society issued Letter of Intent dated 19 September 2023 in favour of the petitioner. It is admitted that proceedings under Section 79A of the Maharashtra Co-operative Societies Act were completed. The petitioner deposited substantial amount with the Society and several drafts of the Development Agreement were exchanged between the parties over a long period. Thus, these basic facts are not in dispute. The dispute is about what legal effect should be given to these admitted facts.

25. According to the petitioner, all material and essential conditions between the parties had been settled. According to the petitioner, only one formal act of signing the Development

Agreement remained. The respondent Society has taken opposite stand. According to the Society, unless the General Body approved the final Development Agreement and the same was executed, no concluded contract ever came into existence. Thus, according to the Society, approval of the General Body formed essential part of the transaction.

26. Therefore, the question is whether those negotiations had reached such stage that law can recognise them as enforceable contract before the Society decided to keep the standalone redevelopment proposal on hold and started considering joint redevelopment with the neighbouring Society.

27. The learned counsel appearing for the petitioner placed considerable reliance upon the judgment of the Supreme Court in *Kollipara Sriramulu*. The principle laid down therein is well settled. Paragraph 3 records:

> "a mere reference to a future formal contract will not prevent a binding bargain between the parties."

28. The Supreme Court observed:

> "The question depends upon the intention of the parties and the special circumstances of each particular case."

29. The Supreme Court approved the observations in *Von Hatzfeldt-Wildenburg* and explained that where parties have agreed upon all essential conditions and the later agreement is only intended to put those settled terms into proper formal shape, existence of such later agreement by does not prevent there being a binding contract.

30. However, the Supreme Court explained the other side of the principle. Paragraph 4 records:

> "there may be a case where the signing of a formal agreement is made a condition or term of the bargain, and if the formal agreement is not approved and signed there is no concluded contract."

31. Therefore, *Kollipara* does not lay down fixed rule applicable in every matter. It nowhere says that every Letter of Intent creates a concluded contract. Likewise, it does not say that every unsigned agreement becomes unenforceable. The Court has to ascertain intention of the parties after reading contractual documents together with surrounding circumstances of each individual case.

32. The judgment in *Trimex International FZE Ltd.* proceeds on the same principle. Paragraph 49 states that once the contract has become concluded, mere absence of formally initialled agreement would not affect its enforceability. However, that observation proceeds on the basis that concluded contract exists. Therefore, before applying that principle, the Court must examine whether there was any concluded contract.

33. The learned counsel for the petitioner relied upon the judgment of the Kerala High Court in *Suresan Nair T.S.* In that case, after acceptance of bids and payment of instalment, the Court observed:

> "Absence of a formal contract cannot lead to an inference that there is no concluded contract when the contract is completed by the acceptance of bid and deposit of the requisite portion of bid amount."

34. Those observations were made after examining the tender conditions applicable in that particular matter. Therefore, even that judgment proceeds upon intention gathered from the contractual documents governing that transaction.

35. The petitioner relied upon *Rajawadi Arunodaya Cooperative Housing Society Ltd.*, wherein this Court observed in paragraph 46 that in redevelopment matters a developer may acquire valuable rights and where substantial investment has been made, different considerations may arise. It was observed that where the owner withdraws from the agreement without any fault on the part of the developer, the developer may still be entitled to enforce his rights.

36. These judgments certainly show that execution of a formal agreement is not necessary in every situation. However, none of these judgments lays down that the Court can ignore the express contractual documents executed between the parties. Intention of the parties has to be gathered from those documents.

37. Keeping these legal principles in view, it becomes necessary to examine the contractual documents governing the present dispute. Clause 15 of the tender provides:

> "The Society shall enter into a Redevelopment Agreement with the Developer selected and appointed by the General Body of the Society."

38. This clause indicates that after appointment of the developer, execution of the Redevelopment Agreement was still contemplated between the parties.

39. Clause 8.2(e) assumes significance. It requires the successful bidder to execute the redevelopment agreement within three months from issuance of the Letter of Intent,

> "containing mutually agreed conditions."

40. The words "mutually agreed conditions" indicate that parties contemplated agreement before final execution of the Development Agreement. Clause 10.20 requires the developer to submit drafts of the Development Agreement and Power of Attorney

> "for execution on mutually agreed terms and conditions."

41. Thus, even after issuance of the Letter of Intent, the contractual documents contemplated continuation of negotiations before final execution. Clause 3 of the Letter of Intent is important. It provides:

> "The Parties shall endeavour to execute and register Development Agreement, Irrevocable Power of Attorney... within reasonable time."

42. The expression "shall endeavour" indicates that execution of those documents was still expected in future and had not taken place. Clause 4 of the Letter of Intent records:

> "The current redevelopment proposal is for standalone development…"

43. Therefore, at that stage, the parties admittedly proceeded only on the basis of standalone redevelopment.

44. The submission made on behalf of the petitioner that thereafter the Society changed the redevelopment scheme from Regulation 33(11) to Regulation 33(20)(B) appears to be borne out from the record. The petitioner accepted that change. Draft agreements were revised. Floor plans underwent changes. Additional benefits were discussed and negotiated. Therefore, it cannot be denied that negotiations had substantially progressed.

45. The petitioner is correct in pointing out that on 9 April 2026 the Society forwarded what was described as the final draft Development Agreement. This circumstance indicates that discussions had reached a fairly advanced stage.

46. However, one more circumstance pointed out by the respondent cannot be ignored. Every page of that draft carried the endorsement:

> "without prejudice draft for discussion purpose only."

47. Such endorsement reserves the legal position of the parties and indicates that discussions were still continuing.

48. One more circumstance appears to assume even greater importance. In its own communication dated 18 April 2026, the petitioner stated:

> "Development Agreement under the said scheme has been... finalized with the Managing Committee of the Society and shall be placed before the General Body... for approval, and thereafter for execution and registration."

49. This statement has come from the petitioner and not from the respondent.

50. Therefore, even according to the petitioner, the draft had reached finality only with the Managing Committee. It still required approval of the General Body before execution. Thus, approval of the General Body was admittedly still pending.

51. The petitioner attempted to explain that approval of the General Body was only a ministerial act. In my opinion, such submission cannot be accepted without qualification. Section 72 of the Maharashtra Co-operative Societies Act recognises the General Body as the supreme authority of the Society. Redevelopment permanently affects rights of all members because they surrender possession of their existing premises and thereafter receive reconstructed flats. Therefore, approval of the General Body cannot be treated as formality.

52. This aspect has received consideration by the Division Bench of this Court in *Kalpataru Properties Pvt. Ltd.* Paragraphs 36 to 38 hold that where important conditions still remain under negotiation, execution of the formal agreement becomes a condition of the bargain. Paragraph 38 observes:

> "The Society would understandably reserve a right to amend or modify the terms, right up to the stage of executing the formal agreement…"

53. These observations answer the submission of the petitioner that approval of the General Body was only ministerial in nature.

54. The same principle has again been explained in *Kalpataru Ltd.* Paragraph 44 observes:

> "The test is not a test of form. It is a test of substance."

55. The learned Judge observed:

> "If the parties agree that important and crucial aspects are yet to be agreed... the earlier agreement is not enforceable."

56. Paragraphs 45 to 47 of the same judgment explain that redevelopment projects stand on a different footing because matters relating to layouts, parking, amenities, flat configuration and members' specifications are not small matters. They go to the root of redevelopment. Unless there is consensus on those aspects, the Development Agreement cannot be treated as merely a formal document.

57. Similar reasoning appears in *Kher Nagar Sai Prasad CHS*. Paragraph 19 observes that mere appointment of the developer by the Society does not by itself become a concluded contract where essential conditions still remain under negotiation. The Division Bench observed that tender clauses together with events occurring after appointment require consideration.

58. The same approach has again been adopted in *Sunteck Realtors Pvt. Ltd.* Paragraph 37 records that members must receive the draft Development Agreement sufficiently in advance so that they can examine the floor plans and thereafter give informed consent. The Court observed:

> "execution of a Development Agreement was not a mere formality…"

59. These observations become relevant because redevelopment cannot proceed unless members know what they are agreeing to receive.

60. The learned Senior Counsel for the respondent relied upon the recent judgment of the Supreme Court in *MSEDCL v. R.Z. Malpani*. Paragraph 31 reiterates:

> "a letter of intent does not, in and of, create a legal relationship…"

61. The Supreme Court explained that the real distinction is between "a promise" and "a promise to make a promise."

62. Paragraphs 35 and 36 hold that where the contract contemplates execution of a future agreement, mere payment of security deposit or completion of preliminary formalities does not create binding relationship unless the contract so provide.

63. The petitioner submitted that those observations arose in a different factual background. That submission is partly correct because every contract has to be interpreted on the basis of its own documents. Even so, the general principle regarding the nature of a Letter of Intent remains applicable.

64. The learned Senior Counsel relied upon *BSNL v. Telephone Cables Ltd.*, wherein the Supreme Court explained the distinction between tender stage obligations and contractual obligations. The Supreme Court observed that contractual conditions become operative only after the contemplated contract comes into existence.

65. After considering the entire material, this Court finds that the facts of the present case contain circumstances supporting both sides. On one hand, there was appointment of the petitioner as preferred developer, issuance of Letter of Intent, completion of Section 79A proceedings, exchange of several draft agreements, revision of redevelopment scheme, payment of substantial amounts by the petitioner and forwarding of what was described as the final draft Development Agreement. On the other hand, the contractual documents contemplated execution of the Development Agreement, execution of irrevocable Power of Attorney, mutual agreement on remaining conditions and approval of the General Body. Even the petitioner accepted in its communication dated 18 April 2026 that approval of the General Body was still required before execution.

66. The General Body resolution dated 19 April 2026 assumes importance. The Society did not terminate the petitioner. Instead, it resolved:

> "H. RISHABRAJ CANNOT BE TERMINATED AT THIS STAGE…"

67. Simultaneously, it resolved that standalone redevelopment shall remain "ON HOLD" until the possibility of joint redevelopment with the neighbouring Society was examined.

68. Thus, according to the Society, the earlier process had not come to an end. At the same time, implementation of standalone redevelopment was suspended because a collective decision of the members was considered necessary.

69. Looking to the tender conditions, the Letter of Intent, subsequent correspondence, repeated exchange of Development Agreement drafts, the petitioner's own communication dated 18 April 2026 and the legal principles explained in *Kollipara*, *Kalpataru Properties*, *Kalpataru Ltd.*, *Kher Nagar Sai Prasad*, *Sunteck Realtors*, *MSEDCL* and *BSNL*, this Court is unable to hold, even prima facie, that execution of the Development Agreement in the present facts was formality. On the contrary, the contractual documents indicate that approval and execution of the Development Agreement formed one essential part of the arrangement contemplated between the parties.

70. Therefore, though the petitioner may have developed certain expectations because negotiations continued for a considerable period and though it may have grievance regarding the later conduct of the Society, the material available does not prima facie establish existence of a concluded contract merely because the Letter of Intent was issued, drafts were exchanged, and the petitioner was selected as the preferred developer.

71. The submissions made on behalf of the petitioner regarding payment of substantial amounts, prolonged negotiations and expenditure incurred may become relevant while deciding monetary or other claims before the learned Arbitral Tribunal. However, those circumstances by cannot override the contractual provisions requiring approval and execution of the Development Agreement before the relationship assumed binding character.

72. Looking to the overall facts and circumstances of the present case, this Court is of the opinion that the petitioner has not made out a strong prima facie case for grant of interim injunctions under Section 9 restraining the respondent Society from proceeding with its redevelopment decisions. The rival contractual rights and claims of both parties shall remain open for adjudication before the learned Arbitral Tribunal.

73. In view of the foregoing discussion, and upon overall assessment of the material record, the following order is passed:

(i) The Arbitration Petition is dismissed;

(ii) The interim reliefs prayed for in prayer clauses (a), (b) and (c) of the petition are refused;

(iii) The observations made in this order are only for the purpose of deciding the present petition under Section 9 of the Arbitration and Conciliation Act, 1996. They are prima facie in nature and shall not influence the Arbitral Tribunal while deciding the disputes on merits;

(iv) It is clarified that the rights and contentions of the parties are kept open for adjudication before the Arbitral Tribunal;

(v) In view of dismissal of the Arbitration Petition, the Interim Application(s), if any, do not survive and stand disposed of.

(vi) There shall be no order as to costs.

(AMIT BORKAR, J.)