



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

COMMERCIAL ARBITRATION PETITION (L) NO.26942 OF 2026

Maruthi Co-operative Housing Society Limited,

A Co-operative Housing Society,
registered under the provisions of the
Maharashtra Co-operative Societies Act, 1960
having its registered office at Plot No. 85,
Pestom Sagar, Road No. 1, Chembur,
Mumbai – 400 089.

.... **Petitioner**

Vs.

1. Tridhaatu Maruthi Developers LLP

A limited liability partnership,
registered under the provisions of the
Limited Liability Partnership Act, 2008,
Having its address at :
Tridhaatu Arita, Plot No. 269 Shanti Niwas,
Deohar Road, Matunga (C.R.), Mumbai – 400 019

2. Tridhaatu Realty and Infra Pvt. Limited

A Company incorporated under the
provisions of the Companies Act, 1956
Having its address at :
Tridhaatu Arita, Plot No. 269 Shanti Niwas,
Deohar Road, Matunga (C.R.), Mumbai – 400 019

.... **Respondents**

Ms. Poorva Garg a/w Mr. Anish Shahapurkar, Hridyanshi Sharma i/b SHS
Chambers for Petitioner.

Mr. Amrut Joshi, Assisted by Ms. Radhika Kulkarni, Amicus Curie.

CORAM : ARUN R. PEDNEKER, J.

DATE : 16th October 2026

PC :

1. Heard.
2. This Court issued notice to the Respondents on 10th September 2026. As per the service report, notice has been duly served upon the Respondents. Learned counsel for the Petitioners further submits that the Respondents have also been served through private mode, in respect of which an affidavit of service dated 24th August 2026 has been filed. Despite service of notice, the Respondents have failed to appear before this Court.
3. As the matter proceeded *ex parte*, this Court appointed Mr. Amrut Joshi, along with Ms. Radhika Kulkarni as *Amicus Curiae* to assist the Court in the matter.
4. The present Petition is filed under Section 9 of the Arbitration and Conciliation Act, 1996, seeking interim measures of protection prior to the commencement of arbitral proceedings. By way of the present Petition, the Petitioner seeks an order restraining the Respondent from carrying out the redevelopment project in respect of the residential building known as “Shobha”, constructed in the year 1967 and situated on land admeasuring approximately 1,353 square yards, equivalent to 1,131.28 square metres, bearing CTS Nos. 562 and 562/1 to 562/5, of Village Chembur, situated at Pestom Sagar Road No.1, Chembur, Mumbai – 400 089 (hereinafter referred

to as “**the said Property**”).

5. The Petitioner also seeks permission to undertake redevelopment of its property either by itself or through an appointment of a new developer. The Petitioner further seeks to restrain Respondent Nos. 1 and 2 from interfering with the redevelopment project to be undertaken by the Petitioner or any agency appointed by the Petitioner. The Petitioner also seeks payment of outstanding transit rent from June 2014 until the date of termination of the Development Agreement, i.e., 7th April 2026. The Petitioner also seeks other ancillary reliefs.

6. It is the case of the Petitioner that the Society’s building, which was constructed in the year 1967, had become dilapidated over the passage of time, necessitating redevelopment of the Society’s property. Accordingly, Respondent No. 2 approached the Petitioner for the redevelopment of the Society’s property. After negotiations and completion of the requisite formalities, a Development Agreement was executed between the Petitioner-Society and Respondent No. 1, who had been appointed by Respondent No. 2 to undertake the redevelopment project.

7. Learned Counsel for the Petitioner, **Ms. Poorva Garg**, submits that Respondent No. 2 is the veritable party to the Development Agreement dated 10th July 2013 (“D.A.”). Under the terms of the D.A., the Petitioners were

entitled to permanent alternate accommodation upon completion of the redevelopment. The Developer was obligated to pay transit rent, furnish a bank guarantee, and discharge all statutory dues. The D.A. further stipulated that no loan or mortgage could be created on the Society's property. Significantly, the D.A. also provided for the resolution of disputes through arbitration under Clause 59, which is reproduced hereinbelow for ready reference.

“59. All disputes, differences or questions between the parties hereto arising out of this Agreement or in relation to the interpretation as to the effect of any of the term and conditions contained herein or in relation to the rights and obligations of the parties hereto shall be referred to a single arbitrator if the parties agree upon a single arbitrator failing which to the arbitration of three arbitrators, one to be appointed by the Society and the Second to be appointed by the Developers and the third an umpire to be appointed by the two arbitrators. Such arbitration shall be held in accordance with the provisions of Arbitration and Conciliation Act, 1996 or any statutory modifications or re-enactment thereof for the time being in force. The application shall take place in Mumbai.”

8. The Society executed a Power of Attorney dated 15th July 2013 in favour of Respondent No. 1, thereby conferring upon it the authority to implement the redevelopment in accordance with the Development Agreement (“D.A.”). The said Power of Attorney was co-terminus with the D.A.

9. In May/June 2014, all 22 members of the Petitioner-Society vacated the premises and handed over possession of the Society's land to the Developer for redevelopment. Consequently, the Developer's obligation to pay transit rent to the members commenced from the said date.

10. Under the terms of the D.A., the Developer was required to complete the project within 24 months, with a grace period of six months, i.e., on or before January 2017 (However, in the Petition, it is referred as January 2018). However, the stipulated period expired on 21st January 2018 without completion of the redevelopment project.

11. The Developer constructed the external bare building structure up to the 10th floor, although permission had been obtained only up to the 8th floor, and thereafter abandoned the project. The Developer also stopped paying transit rent to the members, and in certain cases, made intermittent payments.

12. As per an email dated 31st March 2026 sent by the Developer to the members of the Petitioner-Society, the aggregate contractors outstanding arrears towards transit rent payable to the members amounted to ₹7,35,07,670/- (Rs. Seven Crore Thirty Five Lakhs Seven Thousand Six Hundred Seventy only) as of 7th April 2026, being the date of termination of

the D.A.

13. The Petitioner-Society submits that several meetings were held and communications exchanged with the Respondents in an attempt to secure completion of the redevelopment project. However, despite such efforts, the Developer abandoned the project and discontinued payment of transit rent to the members.

14. The last communication received from the Respondents was dated 31st March 2026, in response to the Show Cause Notice dated 23rd March 2026 issued by the Petitioner-Society in respect of the Respondents' defaults, including non-payment of outstanding transit rent, non-payment of statutory dues, and delay in completion of the redevelopment work. The Show Cause Notice called upon the Respondents to show cause why the D.A. and the P.O.A. should not be terminated and why the Respondents should not be restrained from entering the Society's project premises.

15. By their reply dated 31st March 2026, the legal department of the Respondent-Developer stated that the Respondents were in the process of preparing a reply to the Show Cause Notice. However, no further reply was furnished by the Respondents thereafter.

16. In these circumstances, the Petitioner-Society was constrained to terminate the D.A. and the P.O.A. by issuing a notice dated 7th April 2026.

Thereafter, on 9th April 2026, the Petitioner-Society also published a Public Notice in the Free Press Journal and Navshakti, notifying the termination of the D.A.

17. Learned Counsel for the Petitioners Ms. Poorva Garg submits that, in the facts and circumstances of the present case, the members of the Petitioner-Society vacated the premises in June 2014, and the project was required to be completed on or before January 2018. However, despite the passage of nearly eight years thereafter, no progress has been made towards completion of the project. The incomplete building structure is also in a dilapidated condition, and most of the members of the Society are super senior citizens. They are compelled to incur expenses for their alternate accommodation and are paying rent from their own resources.

18. It is further submitted that the Respondents have abandoned the project for the past eight years and have taken no steps either to complete the project or to pay transit rent and other statutory dues. The Petitioners apprehend that the land belonging to the Petitioner-Society may be attached towards the recovery of the outstanding statutory dues, despite the fact that the project has remained incomplete and the Respondents have failed to discharge their obligations.

19. The Petitioner have relied upon the following Judgments :

1) *Goregaon Sukhnavas CHS Ltd. V. Sukushal Builders & Developers & Ors. (2016) SCC OnLine Bom 3366*

2) *Vaidehi Akash Housing Pvt. Ltd. V. New D.N. Nagar CHS Union Ltd. (2014) SCC OnLine Bom 5068*

3) *Deepak Prabhakar Thakoor & Ors. V. Maharashtra Housing and Area Development Authority & Ors. (2023) SCC OnLine Bom. 2234.*

4) *Kapilkunj Co-operative Housing Society Ltd. Vs. State of Maharashtra and Ors. (Bombay High Court, Division Bench WP No. 2157 of 2021)*

5) *Rakhi Kamal Thakur V. M/s Rebuilt & Ors. (Bombay High Court, Appeal From Order No. 534 of 2023)*

20. Although duly served, the Respondents have failed to enter appearance.

21. Advocate, Mr. Amrut Joshi assisted by Ms. Radhika Kulkarni has been appointed as *Amicus Curiae* to assist the Court. He has taken the Court through the relevant records and referred to orders passed by this Court in similarly situated matters, wherein interim reliefs were granted under Section 9 of the Arbitration and Conciliation Act, 1996. He has also referred to orders passed by learned Arbitrators under Section 17 of the said Act, which were subsequently upheld by this Court under Section 37 thereof.

22. Learned *Amicus Curiae* Mr. Joshi submits that, having regard to the peculiar facts and circumstances of the present case, the reliefs sought by the

Petitioners may appropriately be granted, particularly in a situation where the Developer has abandoned the project, leaving the members of the Society to fend for themselves, without completion of the project, payment of transit rent, or discharge of the outstanding statutory obligations.

23. Learned *Amicus Curiae* has taken me through various judgments as noted under:

“(1) Tata Capital Financial Services Limited Vs. Priyanka Communications (India) Pvt. Ltd. And Ors. (2021) SCC OnLine Bom 14149.

(2) Essar House Private Limited Vs. Arcellor Mittal Nippon Steel India Limited, (2022) 20 SCC 178.

(3) Rajawadi Arunodaya Co-operative Housing Society Ltd. v. Value Projects Pvt. Ltd., 2021 SCC OnLine Bom 9572

(4) Jaycee Homes Pvt. Ltd. V. Kurla Moon Rock Municipal Employees CHS Ltd. (Bombay High Court Writ Petition No. 106 of 2026)

(5) Solaris Developers Pvt. Ltd. Vs. Eversmile Co-op. Housing Society Ltd. (2019) SCC OnLine Bom. 13335

(6) Chandrakant Dagdu Vanne and Ors. v. Heritage Lifestyle and Developers Ltd. And Ors. (Bombay High Court Arbitration Petition (L) No. 12390 of 2026),

(7) Mishal Constructions Pvt. Ltd. v. Krishnanan Co-operative Housing Limited (Bombay High Court Comm. Arbitration Petition (L) No. 16079 of 2025,

(8) Jagdish Ahuja and Anr. V. Cupino Ltd. (2020) 4 Bom CR 1;

(9) Vishwakiran CHS V. Super Construction Company
(Bombay High Court Arbitration Petition No. 156 of 2025)

24. The learned *Amicus Curiae* has also relied upon the judgment of this Court in **Jaycee Homes** (supra), wherein, in an application under Section 9, in an identical factual situation, this Court dismissed the application filed by the Developer seeking to restrain the Society from proceeding with an independent developer, after the Developer had abandoned the original project for nine years.

25. Reliance is also placed on **Solaris Developers** (supra), wherein this Court, while considering a Petition under Section 37 of the Arbitration and Conciliation Act, 1996, challenging an order passed under Section 17 thereof, upheld the order of the learned Arbitrator directing the ejectment of the Developer and permitting the Society to undertake redevelopment either on its own or through another Developer.

26. Learned *Amicus Curiae* has also relied upon the judgment in **Chandrakant Dagdu** (supra), wherein this Court, in a Petition filed by a Co-operative Housing Society against a Developer who had abandoned the redevelopment project, issued directions in an application under Section 9 of the Arbitration and Conciliation Act, 1996, for payment of outstanding transit rent amounting to ₹42,17,076/- (Rs. Forty Two Lakhs Seventeen

Thousand Sixty Six only).

27. Reliance is further placed on *Mishal Constructions* (supra), wherein this Court, on facts similar to those of the present case, upheld the grant of similar reliefs by the learned Arbitrator under Section 17 of the Arbitration and Conciliation Act, 1996, including payment of transit rent and ejectment of the Developer.

28. Learned *Amicus Curiae* Mr. Joshi has particularly drawn my attention to the judgment in *Rajawadi CHS* (supra), and, in particular, paragraphs 49 to 52 thereof. Relying upon the aforesaid judgment, he submits that while a developer is undoubtedly entitled to pursue its commercial interests and earn profits, the mere pursuit of profit cannot, in and of itself, be faulted. However, the developer's pursuit of such commercial interests may result in the creation of third-party rights. The creation of such third-party rights cannot, by itself, confer any equity upon the developer as against its contractual counter-party, particularly where the developer has failed to discharge its foundational contractual obligations.

29. The Developer is entitled to pursue its commercial interests and maximize its profits, provided that it does so in accordance with the contractual terms. In the course of pursuing such interests, the Developer may create rights in favour of third parties. However, the creation of such

third-party rights cannot prejudice the Society's contractual rights or be used by the Developer to defeat, dilute or circumvent its contractual obligations towards the Society. The Developer assumes the risk and responsibility of satisfying any claims arising from such third-party rights, as those rights emanate from independent, principal-to-principal arrangements entered into between the Developer and the respective third parties. Accordingly, the Developer cannot rely upon such arrangements to shift the burden of its contractual commitments onto the Society.

30. The learned counsel submits that, in the instant case, the Developer has also created certain third-party rights, by entering into agreement of sale. However, the liability incurred by the Developer qua such third parties rests entirely upon the Developer and cannot be foisted upon the Society, as the Agreement is on a principal-to-principal basis.

31. The fulfillment of the Developer's obligations towards the Society under the Development Agreement is a sine qua non, and the third-party rights created by the Developer in the course of its profit-making activities cannot be foisted upon the Society. It is further pointed out that the Society is the owner of the property and that the property belongs to the Society. The Society and its members alone are entitled to decide how and to whom they wish to exercise their legal ownership rights over the property. It is not for

outsiders to contend, in general terms, that the rights of the owner have been compromised.

32. If the Society finds that the redevelopment project has not proceeded in the manner contemplated by it, the Society is legally entitled to undertake the redevelopment project itself or through any developer of its choice. To resist such a course of action, the Developer must unequivocally establish that the Society is in default. Such default must be established by clear, unambiguous, and unequivocal evidence and cannot be founded on mere speculation.

33. In the instant case, learned *Amicus Curiae*, **Mr. Amrut Joshi** submits that, from the record, it appears that the Developer has no grounds to resist the handing over of the property to another developer or to the Society, either for carrying out the development itself or through another developer. The Developer has abandoned the Project, which has remained incomplete for over eight years. He further submits that, in ***Rajawadi CHS*** (supra), this Court categorised various cases into different categories and granted reliefs accordingly.

34. In paragraph 54 of the ***Rajawadi CHS*** (supra), the Court has laid down the manner in which this Court should deal with cases falling under Category 3. In such cases, this Court may issue appropriate directions to the

builder. In the event of any default on the part of the builder in payment of transit rent, discharge of statutory dues, or abandonment of the project, this Court may direct termination of the builder's rights, his ejectment from the project site, and his liability to discharge all accumulated financial liabilities up to the date of default. All such consequences must be incorporated into an enforceable order of this Court, and nothing short of such an order would suffice.

35. Considered the submissions of the learned Counsel for the Petitioner and the learned *Amicus Curiae*, Mr. Joshi. In order to grant the interim relief as prayed, this Court is required to consider factors such as the existence of a *prima facie* case, the balance of convenience, and the likelihood of prejudice and irreparable harm. The jurisdiction of this Court under Section 9 of the Arbitration and Conciliation Act, 1996, is discretionary in nature and is intended to provide protective and preservative relief. The principles contained in the Code of Civil Procedure, 1908 ("CPC"), including those under Order XXXVIII, Rule 5, may guide this Court but do not operate as fetters upon the exercise of such jurisdiction. The principles governing the exercise of the Court's powers under Section 9 have been recognised and affirmed by the Division Bench in **Jagdish Ahuja** (supra), this Court has observed as under :

“6. As far as Section 9 of the Act is concerned, it cannot be said that this court, while considering a relief thereunder, is strictly bound by the provisions of Order 38 Rule 5. As held by our Courts, the scope of Section 9 of the Act is very broad; the court has a discretion to grant thereunder a wide range of interim measures of protection "as may appear to the court to be just and convenient", though such discretion has to be exercised judiciously and not arbitrarily. The court is, no doubt, guided by the principles which civil courts ordinarily employ for considering interim relief, particularly, Order 39 Rules 1 and 2 and Order 38 Rule 5; the court, however, is not unduly bound by their texts. As this court held in Nimbus Communications Limited v. Board of Control for Cricket in India (Per D.Y. Chandrachud J, as the learned Judge then was), the court, whilst exercising power under Section 9, "must have due regard to the underlying purpose of the conferment of the power under the court which is to promote the efficacy of arbitration as a form of dispute resolution." The learned Judge further observed as follows:

"Just as on the one hand the exercise of the power under Section 9 cannot be carried out in an uncharted territory ignoring the basic principles of procedural law contained in the Code of Civil Procedure 1908, the rigors of every procedural provision in the Code of Civil Procedure 1908 cannot be put into place to defeat the grant of relief which would subserve the paramount interests of justice. A balance has to be drawn between the two considerations in the facts of each case."

7. In an appropriate case, where the court is of the view that there is practically no defence to the payability of the amount and where it is in the interest of justice to secure the amount, which forms part of the subject matter of the proposed arbitration reference, even if no case strictly within the letter of Order 38 Rule 1 or 2 is made out, though there are serious allegations concerning such case, it is certainly within the power of the court to order a suitable interim measure of protection. As we have noted above, the amount is either to be deposited into the treasury in accordance with the agreement between the parties or if, for any reason, it is not payable to the revenue

towards the Respondent's tax liability, as is the case of the Appellants here, it is to be paid to the Respondent itself as part of the price of debentures. In fact, when these two options were posed by the learned Single Judge to the Appellants' counsel, in fairness both conceded that there was no third option.”

36. The same principles have been reiterated in ***Tata Capital*** (supra), wherein it has been held that the requirements of Order XXXVIII, Rule 5 of the CPC are not a prerequisite for the grant of interim protection under Section 9 of the Arbitration and Conciliation Act, 1996.

37. In ***Essar*** (supra), the Supreme Court clarified that proof of actual attempts to deal with, remove, or dispose of assets with the intention of defeating or delaying the realisation of an impending arbitral award is not imperative for the grant of relief under Section 9 of the Arbitration and Conciliation Act, 1996. A strong possibility of diminution of assets may suffice, subject to the court's assessment of the prima facie case, balance of convenience, and the circumstances warranting interim protection. The Supreme Court held as under:

“46. In Srei Infrastructure Finance Limited v. M/s. Ravi Udyog Pvt. Ltd. and Anr., the Calcutta High Court, speaking through one of us (Indira Banerjee, J.), as Judge of that Court, said:

“4. An application Under Section 9 of the Arbitration & Conciliation Act, 1996 for interim relief is not to be judged as per the standards of a plaint in a suit. If the relevant facts pleaded, read with the documents annexed to the petition, warrant

the grant of interim relief, interim relief ought not to be refused by recourse to technicalities.”

47. Section 9 of the Arbitration Act confers wide power on the Court to pass orders securing the amount in dispute in arbitration, whether before the commencement of the arbitral proceedings, during the arbitral proceedings or at any time after making of the arbitral award, but before its enforcement in accordance with Section 36 of the Arbitration Act. All that the Court is required to see is, whether the applicant for interim measure has a good prima facie case, whether the balance of convenience is in favour of interim relief as prayed for being granted and whether the applicant has approached the court with reasonable expedition.

48. If a strong prima facie case is made out and the balance of convenience is in favour of interim relief being granted, the Court exercising power Under Section 9 of the Arbitration Act should not withhold relief on the mere technicality of absence of averments, incorporating the grounds for attachment before judgment Under Order 38 Rule 5 of the Code of Civil Procedure.

49. Proof of actual attempts to deal with, remove or dispose of the property with a view to defeat or delay the realisation of an impending Arbitral Award is not imperative for grant of relief Under Section 9 of the Arbitration Act. A strong possibility of diminution of assets would suffice. To assess the balance of convenience, the Court is required to examine and weigh the consequences of refusal of interim relief to the applicant for interim relief in case of success in the proceedings, against the consequence of grant of the interim relief to the opponent in case the proceedings should ultimately fail.”

38. The Court is required to preserve the subject matter and the interim measure of protection under Section 9 can be granted to preserve the subject matter of an arbitration pending final adjudication. In the case of

Vishwakiran (supra), this Court held that redevelopment Project cannot be treated as a property capable of being holding by a defaulting developer and sold to another Developer. Paragraph 23 to 25 of this judgment is noted as below:

“23. So far as merits of the dispute are concerned, it is seen that the Respondent has done precious little during last 10 long years towards redevelopment of Society's building. The members of Society continue to remain languished in old and dilapidated homes. Despite owning the land and the building, Society is prevented from reconstructing the building merely because Agreement for Redevelopment and Supplementary Agreement is executed with the Respondent-Developer. Time has come to permit the Society to carry out redevelopment through another developer. This Court has repeatedly taken a view that when rights of the members of the society to have their homes rebuilt are pitted against the right of the developer to earn profits through redevelopment project, the former must prevail over the latter. Reference in this regard can be made to the judgment of this Court in Huges Real Estate Developers LLP vs. Shrinkage Adarsh Co-operative Housing Society Limited and Anr. Even otherwise, there are several judgments of this Court wherein the right of the society to appoint new developer for completing the redevelopment work has been repeatedly upheld leaving open the remedy of arbitration for earlier developer to claim damages. It is repeatedly held that a defaulting developer cannot restrain the society from proceeding ahead with the redevelopment through another developer and that developer's remedy lies in claiming damages in arbitration. The investments made by the earlier developer cannot be a ground for continuing him in respect of the project, which is grossly delayed with no hope of its completion. Mr. Joshi has rightly relied on judgments of this Court in Chaurangi Builders, Gopi Gorwani, Heritage Lifestyle, New Aarti Co-operative Housing Society Ltd., Jal Ratan Deep Co-operative Housing Society Ltd., Goregaon Sukhnavas Co-operative Housing Society Ltd. SSD Escatics

Pvt. Ltd., Karan Group Builders and Developers, Solaris Developers Pvt. Ltd., Asha Sonu Samjiskar, Rajawadi Arunodaya Co-operative Housing Society Ltd., Swashray Co-op Housing Society Ltd. and ISON Builders LLP (supra). Since the principles are well settled, it is not necessary to discuss the ratio of each of the judgment relied upon by Mr. Joshi.

24. In the present case, what Respondent is doing is to gamble in the Project at the cost of lives of the society members. What is at stakes for the Respondent-developer is an insignificant amount he has invested and the opportunity to make profits in the project. But what is at stake for the society members is of far greater significance and would outweigh the stakes of the developer. Redevelopment project cannot be treated as a 'property' capable of being hoarded and sold to another developer by earning profits.

25. In the present case, the Court is convinced that the Petitioner must be permitted to appoint new developer for completing the work of demolishing the existing building and reconstructing the same. Respondent has been given sufficient time by the Society. If in past 10 years, Respondent has not been able to secure development permission from planning authority or even to demolish the existing building by undertaking the obligation of paying transit rent to the members, absence of enthusiasm, interest and capacity to complete the project is writ large. This Court is also conscious of the position that the second termination of Respondent's appointment is effected by the Petitioner-Society on 18 May 2021. Substantial time has elapsed thereafter. However, in a redevelopment project, there are often unique circumstances where Municipal Corporation does not permit society or new developer to submit plans without securing NOC from architect of earlier developer. Thus, there are three major factors why this Court considers it necessary to make interim measures even before commencement of arbitral proceedings. Firstly, the society building is in dangerous and dilapidated condition. Any mishap would result in injury or loss of human life. It is therefore necessary that immediate steps are taken for

appointment of new developer, particularly before onset of monsoon so that there are no casualties on account of happening of any untoward incident. Secondly, the Society has started scouting for other developer and no developer is showing interest on account of Respondent-Developer asserting rights in the project. In such circumstances, grant of interim measures would enable the Society to negotiate with the new developers, who would feel confident for taking over the contractual obligations once they are satisfied that the Respondent cannot obstruct the redevelopment process. Thirdly the redevelopment of building of society is the subject matter of arbitration. It happens quite often that developer finding it financially difficult to complete the project, executes an arrangement with another developer on a profit-sharing basis. If urgent interim measures are not made, the Respondent-Developer is likely to create third-party rights in respect of the project. This is yet another reason why interim measures are required to be made to preserve the subject matter of arbitration. In my view therefore, a case is made out for grant of interim measures in the Petition..”

39. From the material on record, this Court finds that the Society has established a strong *prima facie* case for the grant of interim relief, as the Developer has failed to make any meaningful progress on the Project for the past eight years beyond the contractually stipulated date of completion. The Developer has also failed to appear in the present proceedings to contest the claims made by the Society. Further, the Developer has failed to discharge its contractual obligations, including the obligation to pay transit rent. In these circumstances, the Society has evidently lost faith in the Developer's ability to complete the Project in accordance with its contractual obligations. This Court is therefore satisfied that the Society would suffer irreparable harm if

the interim reliefs sought are not granted.

40. This Court would also consider the effect of granting interim relief under Section 9, particularly where third-party rights have been created by the developer. In the present matter, the Project is registered under RERA but has been abandoned by the Developer. In these circumstances, the question that arises is whether an interim relief as prayed can be granted under Section 9 to the prejudice of third parties in whose favour the developer has created rights. In this regard, the judgment of this Court in *Vaidehi Akash* (supra), being the first judgment on the point, is relevant.

41. In *Vaidehi Akash* (supra), this Court was dealing with a case under the MOFA Act. The Court considered the development of a property belonging to a Co-operative Housing Society comprising nearly 480 families. The dispute concerned (i) the development rights claimed by two rival developers in respect of the property; (ii) the rights of the original members and residents occupying the tenements within the property; and (iii) the rights of new purchasers with whom agreements had been entered into by the developers at various stages during the course of development of the property.

42. Each of these stakeholders had filed their own suits or initiated proceedings, inter alia, seeking interim reliefs in support of their respective

claims. All the interim applications were heard together by the Court.

43. Upon considering the material on record, this Court held that there was no privity of contract between the Society and the third-party purchasers claiming through the Developer. The third-party purchasers could not claim specific performance of their respective agreements for sale except through the Developer. They stood or fell with the Developer. Where the Developer's rights were brought to an end by the lawful termination of the Development Agreement by the Society, the third-party purchasers could not assert any independent claim against the Society or anyone claiming through it.

44. The agreements entered into with third-party purchasers were premised upon the existence of a valid, subsisting, and enforceable agreement between the vendors, i.e., the Developer, and the owners, i.e., the Society. If the Developer failed to perform its obligations, the purchasers had to suffer the consequences. The rights of the purchasers were subject to, and could not exceed, the rights of the Developer. Therefore, from a contractual standpoint, the third-party purchasers had no case against the Society.

45. After the enactment of the Real Estate (Regulation and Development) Act, 2016 (RERA), the High Court, relying upon its earlier judgment in *Vaidehi Akash* (supra), observed in *Goregaon Pearl CHSL v. Dr. Seema Mahadev Paryekar & ors.* (2019 SCC OnLine Bom 3274) that the enactment

of RERA does not make any difference to the legal position.

46. RERA was enacted to establish a regulatory authority for the regulation and promotion of the real estate sector, to ensure the sale of real estate projects in an efficient and transparent manner, and to protect the interests of consumers in the sector. The grievances of purchasers under RERA are addressed by the Regulatory Authority established under the Act.

47. However, none of the provisions of RERA renders the owner of the freehold or leasehold interest in the land, who enters into a development agreement with a developer, liable for discharging the developer's obligations under RERA merely because the developer subsequently enters into agreements for sale with third-party flat purchasers on the basis of such development agreement.

48. The Division Bench of this Court, in ***Deepak Prabhakar*** (*supra*), while considering the case of third-party purchasers who had entered into agreements with the developer and claimed substantive rights in respect of the Society's property, in the context of the Society's proposal for its own redevelopment, reaffirmed the position of law laid down in ***Vaidehi Akash*** (*supra*) and ***Goregaon Pearl*** (*supra*).

49. The Division Bench of this Court, in ***Kapilkunj CHS*** (*supra*), has observed that third-party purchasers have no rights over the assets of the

Society. It has further held that, if the Society undertakes redevelopment following the termination of its redevelopment agreement, any additional F.S.I. or buildable area generated thereby would enure to the benefit of the Society. The Court has observed that third-party flat purchasers have no rights, claims, or equities in respect of the assets of the Society. This includes not only the original structure but also the entire redevelopment project, including all additional F.S.I. and free-sale components. The Court has further reiterated that, in such circumstances, there is absolutely no privity of contract between the third-party purchasers and the Society or its members. Accordingly, no different view can be taken by any authority, including MahaRERA.

50. A similar view was taken by this Court in **Rakhi Kamal** (supra). This Court has consistently held that, even in the case of a RERA-registered project, purchasers' rights are confined to the development in which they have an interest. Upon the valid termination of the Development Agreement between the landowner and the developer, the purchasers' rights remain subject to the consequences of such termination, having regard to the fact that the contractual arrangement between the landowner and the developer is on a principal-to-principal basis. This position has been clearly explained in the judgment of **Rajawadi** (supra), wherein this Court, in paragraphs 49 to

54, has observed as follows:”

“49. In all this, we should not miss something that seems to me to be cardinal. It is a mistake, in my view, to pillory a developer for being profit-oriented. That is the nature of every developer's business. That is what it does. Pursuing a profit is, as Mr. Shah points out, neither illegal nor criminal. It is perfectly legitimate. The question is not whether the pursuit of a profit is a good or a bad thing. It is a question of fidelity to the contract that permits the pursuit of profit. It is only this aspect of the matter with which we are concerned. In the course of pursuing that profit, the developer will create third party rights. Those cannot, in turn, create equities in favour of the developer against its contractual counterparty, the society. The developer takes the risk of satisfying those third-party claims simply because those third-party rights are principal-to-principal agreements between the developer and third parties. The developer created them and incurred liabilities to third parties on his own and in pursuit of his gains. But that is only ever legitimate if the developer is not in default of its obligations to the society in the first place. No developer can be heard to say it has rights vis-a-vis third parties or free sale areas while yet in default of its obligations to the society. The fulfillment of the obligations to the society by the development is the sine-qua-non that entitles the developer to create third party rights and make profits from the free-sale areas. Absent a fulfillment of a foundational obligation to the society, there are no equities or rights that inhere in a developer vis-a-vis others or in respect of any free-sale areas.

50. The other fundamental factor never to be lost sight of is this: the Society is the belongs to the Society. The Society and the members will decide how and through whom they want to exploit their legal ownership rights over that property. It is not for any other outsider to say in generality that the rights of an owner have been compromised. If the Society has divested itself of ownership rights, there are ways in law of doing this. If the Society has found that its redevelopment project has not proceeded in the manner that it intended, then the Society is always within its legal entitlement to undertake the

development itself or through any other developer of its choice. To resist this, a developer must be able to show unequivocally that it is the society that is in default and it must show this in the clearest and most unambiguous terms, not in some roundabout, inferential or speculative manner. I imagine Mr. Shah understands this perfectly well. This is indeed the reason he has been at pains to try and make out a case in regard to deficiency of title. But if that case is not a clear and unambiguous breach, i.e. a fundamental breach, then his submissions will not assist his client, the Developer here.

51. There is a considerable amount of judicial learning on this branch of the law. I myself have had occasion to deal with such issues in the past, but before I turn to those, I believe this is an opportune matter to set out some broad principles.

52. There are, in my experience, and I do not say this with any rigidity, three broad classes of disputes of this kind pertaining to societies and their disputes with developers.

(a) In Category 1, we find those cases where an agreement is entered into, the society and its members for some reason or the other do not vacate although the developer has everything ready to proceed.

(b) In Category 2, one that is sadly quite common, we have a situation where the society and their members vacate, the developer takes possession, but then nothing happens for years together; and when the society tries to take charge of its own estate and redevelopment, the developer comes forward and cites the pendency of the agreement. In such cases, the developer is very often in default of huge amounts of financial obligations. There, clearly, there is no equity on the side of the developer. Such developers are often only speculating in land and property prices.

(c) Category 3 cases, and this is where I believe the present case falls, are those where the society has vacated, the developer has taken possession, has done some amount of work, but then at some point falls behind in payment of

financial obligations and completion of development. This is a downward spiral. The developer gets mired more and more in debt. The arrears of transit rent keep mounting with each passing month, and then there is a near financial impossibility. Sometimes, these matters are resolved by negotiations, but it is here that the questions of law and of assessment of contracts really arise.

(d) Category 4 cases are of the kind where both the society and the developer are on the same page. Most members of the society have vacated. The developer is ready to proceed, but there are one or two dissenting members. This category of cases will fall within the Girish Mulchand Mehta & Ors. v. Mahesh S. Mehta & Ors.² line of judgments and need not detain us. That is now a separate jurisprudence of its own.

53. Each of one these requires a slightly different approach, but in the Category 3 cases with which we are concerned, I would venture to suggest that, again without attempting to lay down any strait jacket or rigid formula, the following tests are among those to be applied:

(a) Can it be shown that there is a default on the part of the society in fulfilling its obligations? For instance, has the society failed or refused to vacate? Has it wrongly claimed arrears of transit rent or other dues although these have been paid? Is the society itself merely trying to squeeze more financial gain out of the developer? If so, the society's petition will be dismissed--possibly with costs and even strictures--and the developer will receive the full weight of protection against unjust or unlawful termination.

(b) Can the default by the society be said to be a fundamental breach or a breach of a fundamental term such as would excuse the developer from performing one or more of its obligations? For instance, a failure to deliver possession might constitute such a fundamental breach; for, without possession, the developer simply cannot proceed. Unless it has vacant

possession, the developer has no obligation to pay transit compensation or, possibly, the other dues.

(c) Can it be shown that the financial or other obligations of the developer have a one-to-one correspondence with the obligations of the society such that a default by the society would absolve the developer from the performance of his obligations? Again, an example of this might be the society's obligation to deliver vacant possession. It is quite clear from any reading of any of these agreements that a failure to do so will result in the developer being excused from performing almost all his obligations including the financial obligations. But once this has happened--and this is why at the beginning of this judgment I called a trigger event--then a series of consequences begin to follow. Unless it is demonstrated that the developer's ensuing obligations have a express conditionality attached to them, the developer cannot seek to evade the consequences of a breach of its financial obligations and its obligations to complete the development on time.

54. Therefore, a final factor relates to how a Category 3 case developer conducts itself once the society has come to court. There are several distinct elements in play at this time: (i) accumulated arrears of transit rent and other dues; (ii) the obligation to pay ongoing transit rent until possession with an occupation certificate; (iii) payment of statutory and corporation dues, including property tax (including arrears, and irrespective of when these are actually due), for non-payment puts at risk the very property of the society; and (iv) a demonstration of the financial means to bring the project to completion. To stave off a society's petition framed such as the present one is, the respondent-developer must place an acceptable proposal that covers all these. Accumulated arrears can be capitalized and allowed to be paid in reasonable tranches or instalments. But while that is happening, ongoing payment obligations must be met month to month. All statutory

dues and property taxes must be cleared. There must be a tenable, viable and cogent statement of availability of financing to complete the project, and this, in turn, requires a fair estimate of the remaining costs of completion, disclosure of the source of funding (not some woolly promise or expectation) and the actual and ready availability of, and access to, that funding. Inevitably, there will also be a default clause in any such re-worked understanding that culminates in Consent Terms or a consent order: if there is a default (of such kind as is agreed before the Court), the developer must accept (a) the termination; (b) ejectment from the site; and (c) its liability to pay all accumulated financial debts until the date of default—all resulting automatically in an enforceable order of the court. Nothing short of this will do.”

51. Considering the law laid down by this Court in the aforesaid judgments, this Court finds that there is no impediment to granting relief to the Petitioner under Section 9 of the Arbitration and Conciliation Act, 1996, notwithstanding the fact that the Project is registered under RERA and that third-party rights have been created by the Developer. The Developer has abandoned the Project, and the Society has terminated the Development Agreement. Consequently, the third-party rights created by the Developer cannot survive the termination of the Development Agreement.

52. Substantial amounts are outstanding towards transit rent payable to the members of the Society. All the members are senior citizens, many of whom are super senior citizens, and are constrained to arrange alternative accommodation at their own expense and reside away from their original homes. The continued non-payment of transit rent has caused them

considerable hardship.

53. Further, the redevelopment of the property would require substantial funds, and the existing structure, which has been left abandoned by the Developer, would have to be demolished before fresh redevelopment can be undertaken.

54. This Court has consistently held that, in such circumstances, interim relief directing payment of transit rent can be granted. Appropriate directions permitting the Society to undertake redevelopment, together with all consequential reliefs, can also be granted in proceedings under Section 9 of the Arbitration and Conciliation Act, 1996.

55. The Developer's remedy, if any, would be to invoke arbitration against the Society in respect of its monetary claims, if otherwise maintainable in law. In the facts and circumstances of the present case, the Developer cannot insist upon preservation of the Development Agreement merely to retain its contractual rights, particularly when the Project has been abandoned and the transit rent payable to the members remains unpaid.

56. Applying the aforesaid principles to the facts of the present case, the Developer's repeated defaults in payment of transit rent and continued failure to discharge its obligations under the Development Agreement ("D.A.") have given rise to legitimate and bona fide concerns on the part of

the Society, resulting in a loss of faith and confidence in the Developer. The cumulative effect of these defaults, viewed in the context of the Developer's contractual obligations and the Society's legitimate interests, warrants the grant of appropriate interim relief to protect the Society from further prejudice and to preserve its interests pending the final resolution of the disputes between the parties.

57. In view of the aforesaid circumstances, the Petitioner is entitled to the reliefs as prayed for in the prayers set out hereinbelow:

Sr. No.	Prayer in the Petition	Is granted in view of the Judgments noted below
1.	Prayer (a) : That pending the Arbitral proceedings, this Hon'ble Court may be pleased to direct the Respondents to forthwith pay Rs. 73,507,670/- (Rupees Seven Crore Thirty-Five Lakh Seven Thousand Six Hundred Seventy) in terms of Exhibit 'G' Colly towards arrears of transit rent due and payable to the members of the Petitioner society, including enhanced compensation for delay in completion of the said project as stipulated under Clause 6 (b) of the said Development Agreement.	1. Chandrakant Dagdu Vanne & Ors. v. Heritage Lifestyle and Developers Ltd. & Ors., Bombay High Court in Arbitration Petition (L) No. 12390 of 2026 2. Solaris Developers Pvt. Ltd. v. Eversmile Co-op. Housing Society Ltd., 2019 SCC OnLine Bom 13335 3. Jagdish Ahuja & Anr. v. Cupino Ltd., (2020) 4 Bom CR 1 4. J.P. Parekh & Son & Anr. v. Naseem Qureshi & Ors., Bombay High Court in Commercial Arbitration Petition No. 629 of 2021 5. Essar House Pvt. Ltd. v. Arcelor Mittal Nippon Steel India Ltd., 2022 SCC OnLine SC

Sr. No.	Prayer in the Petition	Is granted in view of the Judgments noted below
		1219 6. Tata Capital Financial Services Ltd. v. Priyanka Communications India Pvt. Ltd., Bombay High Court in Com. Arb. Pet. (L) No. 3628 of 2021 7. Valentine Maritime Ltd. v. Kreuz Subsea Pte Ltd. & Anr., 2021 SCC OnLine Bom 75
2.	Prayer (b) : That pending the Arbitral proceedings, this Hon'ble Court may be pleased to direct the Respondents to forthwith pay and/or clear all outstanding statutory dues aggregating to Rs. ₹ 1,10,76,852/- (Rupees One Crore Ten Lakh Seventy-Six Thousand Eight Hundred Fifty-Two Only) in terms of Exhibit 'I Colly', including but not limited to municipal taxes, property taxes, water charges, assessment tax and all other such charges, taxes, duties and outgoings payable, together with applicable interest and penalties, in respect of the Petitioner's property.	1. Rajawadi Arunodaya Co-op. Hsg. Soc. Ltd. v. Value Projects Pvt. Ltd., 2021 SCC OnLine Bom 9572 2. Jagdish Ahuja & Anr. v. Cupino Ltd., (2020) 4 Bom CR 1 (DB) 3. Essar House Pvt. Ltd. v. Arcelor Mittal Nippon Steel India Ltd., 2022 SCC OnLine SC 1219
3.	Prayer (c) : That pending the Arbitral proceedings and till execution of the Award, this Hon'ble Court be pleased to direct the Respondents to handover and return to the Petitioner, in original, each and every document relating to redevelopment process of the Petitioner's property including but not limited to Development Agreement dated 10.07.2013, Power of Attorney dated 15.07.2013, all the original documents of approval, sanctions, certificates, plans, permissions (applied for and received) and records pertaining to the Petitioner's property and redevelopment thereof.	1. Vishwakiran Co-op. Housing Society Ltd. v. M/s. Super Construction Company, Bombay High Court in Arbitration Petition No. 156 of 2025 2. Rajawadi Arunodaya CHS v. Value Projects, 2021 SCC OnLine Bom 9572 3. Swashray Co-op. Housing Society Ltd. v. Shanti Enterprises, Bombay High Court in 2023:BHC-OS:13075

Sr. No.	Prayer in the Petition	Is granted in view of the Judgments noted below
		4. Asha Sonu Samjiskar & Ors. v. Sadguru Enterprises, Bombay High Court in Com. Arb. Pet. (L) No. 674 of 2019) 5. SSD Escatics Pvt. Ltd. v. Goregaon Pearl Co-op. Housing Society Ltd., Bombay High Court in Com. Arb. Pet. (L) No. 1072 of 2018 6. Solaris Developers Pvt. Ltd. v. Eversmile Co-op. Housing Society Ltd., 2019 SCC OnLine Bom 13335
4.	Prayer (d) : That pending the Arbitral proceedings and till execution of the Award, this Hon'ble Court may be pleased to grant a temporary injunction restraining the Respondents, their representatives, servants, officers, employees, agents or any persons claiming through or under them from in any manner acting upon, claiming any rights under, or deriving any benefit from the Development Agreement dated 10.07.2013 and the Power of Attorney dated 15.07.2013;	1. SSD Escatics Pvt. Ltd. v. Goregaon Pearl Co-op. Housing Society Ltd., Bombay High Court in Com. Arb. Pet. (L) No. 1072 of 2018, : Para 2, and 33–35 2. The Jal Ratan Deep Co-op. Housing Society Ltd. v. Kumar Builders Mumbai Realty Pvt. Ltd., 2015 SCC OnLine Bom 5928, : Paras 1 and 33. 3. Heritage Lifestyle and Developers Ltd. v. Cool Breeze Co-op. Housing Society Ltd., 2014 (3) Mah LJ 376, : Para 46 4. Cox and Kings India Ltd. v. Indian Railways Catering and Tourism Corporation Ltd., (2012) 7 SCC 587, : Para 26 5. Chaurangi Builders & Developers Pvt. Ltd. v.

Sr. No.	Prayer in the Petition	Is granted in view of the Judgments noted below
		Maharashtra Airport Development Company Ltd., 2013 SCC OnLine Bom 1530, :Paras 24 and 26. 6.Pioneer Construction v. Sahakarnagar Co-op. Housing Society Ltd., 2026 SCC OnLine Bom 2711, :Para 35.
5.	Prayer (e) : That pending the Arbitral proceedings and till execution of the Award, this Hon'ble Court may be pleased to grant a temporary injunction restraining the Respondents, their representatives, servants, officers, employees, agents or any persons claiming through or under them from in any manner, meddling and/or interfering with and/or causing any obstruction whatsoever, to the Petitioner in appointing new developer and the new developer carrying on with the redevelopment work at site;	1. Vishwakiran CHS v. Super Construction Company, Bombay High Court in Arbitration Petition No. 156 of 2025 2. Swashray CHS v. Shanti Enterprises, Bombay High Court in 2023:BHC-OS:13075 3. Goregaon Sukhdivas Co-op. Housing Society Ltd. v. Sukushal Builders & Developers & Ors., 2016 SCC OnLine Bom 3366 4. Rajawadi Arunodaya CHS v. Value Projects, 2021 SCC OnLine Bom 9572 5. Gopi Gorwani v. Ideal Co-operative Housing Society Ltd. & Ors., 2013 SCC OnLine Bom 1967 6. Heritage Lifestyle and Developers Ltd. v. Cool Breeze Co-op. Housing Society Ltd., 2014 (3) Mah LJ 376 7. The New Aarti Co-op. Housing Society Ltd. v. Kabra Estate & Investment Consultants, 2015 SCC OnLine Bom 5929 8. The Jal Ratan Deep Co-op.

Sr. No.	Prayer in the Petition	Is granted in view of the Judgments noted below
		Housing Society Ltd. v. Kumar Builders Mumbai Realty Pvt. Ltd., 2015 SCC OnLine Bom 5928 9. Karan Group Builders and Developers & Ors. v. Dindoshi Vrindavan C.H.S. Ltd. & Ors., 2019 (4) ABR 673 10. Ison Builders LLP v. Om Sai Ram Co-operative Housing Society Ltd., 2026 SCC OnLine Bom 319 11. Jaycee Homes Pvt. Ltd. v. Kurla Moon Rock Municipal Employee Co-op. Housing Society Ltd., Bombay High Court in Arbitration Petition No. 106 of 2026 12. Pioneer Construction v. Sahakarnagar Co-op. Housing Society Ltd., 2026 SCC OnLine Bom 2711
6.	Prayer (f) : That pending the Arbitral proceedings and till execution of the Award, this Hon'ble Court may be pleased to direct the Respondents, their representatives, servants, officers, employees, agents or any persons claiming through or under them from in any manner, to render all cooperation and sign all the documents/ papers/ forms/deeds as may be required by the Petitioner or their newly appointed developer in the redevelopment process;	1. Rajawadi Arunodaya CHS v. Value Projects, 2021 SCC OnLine Bom 9572 2. Vishwakiran CHS v. Super Construction Company, Bombay High Court in Arbitration Petition No. 156 of 2025
7.	Prayer (g) : That pending the Arbitral proceedings, this Hon'ble Court may be pleased to direct the Respondents to	1. Vishwakiran CHS v. Super Construction Company, Bombay

Sr. No.	Prayer in the Petition	Is granted in view of the Judgments noted below
	obtain and hand over to the Petitioner No-objection certificates (NOCs) from the structural engineer(s), architect(s), consultant(s), contractor(s) and such other persons/agencies/contractors engaged/employed by Respondents in respect of redevelopment of the Petitioner's property;	High Court in Arbitration Petition No. 156 of 2025
8.	Prayer (h) : That pending the Arbitral proceedings, this Hon'ble Court may be pleased to direct all the concerned authorities including MCGM not to insist on any NOCs from the Petitioner for processing any application for redevelopment permission that the Petitioner may make itself or through constituted attorney or through its appointed new developer in respect of redevelopment of the Petitioner's property;	1. Vishwakiran CHS v. Super Construction Company , Bombay High Court in Arbitration Petition No. 156 of 2025 2. Rajawadi Arunodaya CHS v. Value Projects , 2021 SCC OnLine Bom 9572
9.	Prayer (I) : That pending the Arbitral proceedings and till execution of the Award, this Hon'ble Court may be pleased to restrain the Respondents from selling, transferring, alienating, encumbering, or creating any third-party rights in respect of the Petitioner's property and any premises in the new building in any manner whatsoever;	1. Goregaon Sukhnivas CHS v. Sukushal Builders & Developers , 2016 SCC OnLine Bom 3366 2. Vishwakiran CHS v. Super Construction Company , Bombay High Court in Arbitration Petition No. 156 of 2025 3. Pioneer Construction v. Sahakarnagar Co-op. Housing Society Ltd. , 2026 SCC OnLine Bom 2711 4. Rajawadi Arunodaya CHS v. Value Projects , 2021 SCC OnLine Bom 9572 5. Swashray CHS v. Shanti Enterprises , Bombay High Court in 2023:BHC-OS:13075

Sr. No.	Prayer in the Petition	Is granted in view of the Judgments noted below
		(neutral citation) 6. SSD Escatics v. Goregaon Pearl CHS , Bombay High Court in Com. Arb. Pet. (L) No. 1072 of 2018
10.	Prayer (j) : That pending the Arbitral proceedings, this Hon'ble Court may be pleased to restrain the Respondents from making any representations, applications or submissions to any statutory, municipal or governmental authority in respect of the Petitioner's property or redevelopment thereof;	1. Prince Cuisines Pvt. Ltd. v. Cream Veg Hospitality LLP , Bombay High Court in Arbitration Petition No. 156 of 2025 in Arbitration Petition (L) No. 7925 of 2020, :Paras 16 to 18 (analogous) 2. SSD Escatics v. Goregaon Pearl CHS , Bombay High Court in Com. Arb. Pet. (L) No. 1072 of 2018, Para 2, upheld at paras 33–35 (analogous)
11.	Prayer (k) : That pending the Arbitral proceedings, this Hon'ble Court be pleased to appoint a Court Receiver in respect of the Petitioner's property, with all powers under Order XL Rule 1 of the Code of Civil Procedure, 1908 to assist the Petitioner in the following, as may be required by the Petitioner: i. To access Petitioner's property and the under construction building; ii. To appoint a new builder to complete the remaining construction of the new building; iii. To supervise the construction on the Petitioner's plot until possession is handed over to all the members of the Petitioner; iv. Such other assistance as the members	1. Rajawadi Arunodaya CHS v. Value Projects , 2021 SCC OnLine Bom 9572 2. SSD Escatics v. Goregaon Pearl CHS , Bombay High Court in Com. Arb. Pet. (L) No. 1072 of 2018 3. Solaris Developers v. Eversmile CHS , 2019 SCC OnLine Bom 13335 4. Valentine Maritime Ltd. v. Kreuz Subsea Pte Ltd. & Anr. , 2021 SCC OnLine Bom 75

Sr. No.	Prayer in the Petition	Is granted in view of the Judgments noted below
	of the Petitioner may require during the process of completion of construction of the new building.	
12.	Prayer (l) : That pending the Arbitral proceedings, this Hon'ble Court may be pleased to direct the Respondents to forthwith hand over to the Petitioner any and all keys and access pertaining to the Petitioner's property or any part thereof.	1. Rajawadi Arunodaya CHS v. Value Projects, 2021 SCC OnLine Bom 9572 2. Swashray CHS v. Shanti Enterprises, 2023:BHC-OS:13075 3. Goregaon Sukhnivas CHS v. Sukushal Builders & Developers, 2016 SCC OnLine Bom 3366 4. SSD Escatics v. Goregaon Pearl CHS, Bombay High Court in Com. Arb. Pet. (L) No. 1072 of 2018
13.	Prayers (m) and (n) : (m) Pending the hearing and final disposal of the present Petition, direct the Respondents to disclose on affidavit all financial arrangements, encumbrances, third-party rights, agreements, and transactions created in respect of the Petitioner's property and/or their entitlements under the said Development Agreement; (n) That this Hon'ble Court be pleased to direct the Respondents to disclose, on oath, within such period as this Hon'ble Court may deem fit and proper, complete particulars of all its ongoing projects, completed projects and all unsold flats, shops, commercial and residential premises, units, inventory and other assets owned, developed or controlled by the Respondents directly or through special purpose vehicle/	1. Tata Capital Financial Services Ltd. v. Priyanka Communications India Pvt. Ltd., Bombay High Court in Com. Arb. Pet. (L) No. 3628 of 2021 2. Solaris Developers v. Eversmile CHS, 2019 SCC OnLine Bom 13335 3. Valentine Maritime Ltd. v. Kreuz Subsea Pte Ltd. & Anr., 2021 SCC OnLine Bom 75

Sr. No.	Prayer in the Petition	Is granted in view of the Judgments noted below
	consortium/ subsidiary.	
14.	Prayers (o) and (p): (o) Pursuant to such disclosure, this Hon'ble Court may be pleased to direct injunction against sale of the said unsold flats, shops, commercial and residential premises, units, inventory and other assets owned, developed or controlled by the Respondents directly or through special purpose vehicle/ consortium/ subsidiary, as this Hon'ble Court may deem fit. (p) That pending the commencement, hearing and final disposal of the arbitral proceedings, this Hon'ble Court be pleased to restrain the respondent from selling, transferring, alienating, encumbering, parting with or creating any third party rights in respect of its unsold flats, shops, commercial premises, units and inventory.	1. Tata Capital Financial Services Ltd. v. Priyanka Communications India Pvt. Ltd. Bombay High Court in Com. Arb. Pet. (L) No. 3628 of 2021 2. Essar House Pvt. Ltd. v. Arcelor Mittal Nippon Steel India Ltd., 2022 SCC OnLine SC 1219

58. I, therefore proceed to pass following order :

ORDER

- (i) Pending the arbitration proceedings and till making of the final award, there shall be interim measures in favour of the Petitioner and against the Respondent in terms of prayer clauses **(a) to (p)**.
- (ii) The Petitioner shall invoke arbitration proceedings by issuing a notice under Section 21 of the Arbitration and

Conciliation Act, 1996, within a period of thirty (30) days from today. Thereafter, in the event that the Respondent fails to consent to the appointment of an Arbitrator within the period prescribed under the said Act, the Petitioner shall initiate appropriate proceedings under Section 11 of the Arbitration and Conciliation Act, 1996, within a further period of sixty (60) days.

- (iii) In the event that the Petitioner fails to issue the notice under Section 21 of the Arbitration and Conciliation Act, 1996, within the aforesaid period of thirty (30) days, or fails to initiate proceedings under Section 11 of the said Act within the aforesaid period of sixty (60) days, the order passed today shall automatically stand vacated.

59. The Writ Petition is accordingly allowed. All rights and contentions of the parties are kept open.

60. This Court places on record its appreciation for the valuable assistance rendered by the learned *Amicus Curiae*, Mr. Amrut Joshi, ably assisted by Ms. Radhika Kulkarni.

(ARUN R. PEDNEKER, J.)

BHALCHANDRA
GOPAL
DUSANE

Digitally signed by
BHALCHANDRA
GOPAL DUSANE
Date: 2026.10.17
17:32:25 +0530