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

***COMM. ARBITRATION PETITION (L) NO. 416 OF 2021***

Parinee Realty Pvt. Ltd. ... Petitioner  
Vs  
Anand Villa Co-op. HSG Soc. Ltd. & Ors. ... Respondents

Mr. Prateek Seksaria a/w Mr. Arun Panickar a/w Miss Neha M Shah  
a/w Mr. Animesh Singh i/b Maniar Srivastava Associates for the  
Petitioner

Mr. Prashant Chavan a/w Murari Madekar i/b M/s. Madekar & Co.  
for the Respondents

***CORAM : B.P. COLABAWALLA, J.***

***DATE : 29<sup>th</sup> JANUARY, 2021***

***P.C. :***

The parties before me have agreed that no reasons be given in this order. In view of the aforesaid agreement, the Order dated 8<sup>th</sup> July, 2020 passed by the Learned Sole Arbitrator under section 17 of the Arbitration and Conciliation Act, 1996 (“the Act”) is modified as under:-

2 The directions to the petitioner to pay the maintenance charges and property tax in respect of Flat Nos. 1001 and 1101 are set aside. The claim of the respondents in respect of maintenance

charges and property tax in respect of Flat Nos. 1001 and 1101 would be decided by the Learned Sole Arbitrator at the time of final hearing of the arbitration dispute between parties after giving the parties an opportunity of leading evidence in support of their respective case. The contentions of both the parties on the issue of maintenance charges and property taxes in respect of Flat No. 1001 and 1101 are kept open.

3           The directions to pay maintenance charges in respect of three shops with Mezzanine floor, First Basement Area and First floor as per statement annexed to the letter dated 3<sup>rd</sup> November, 2018 of the Advocates for the Respondent is kept in abeyance till the decision of the learned Arbitrator on the application dated 15/2/2020 preferred by the petitioner u/s 17 of the Act. The learned Sole Arbitrator, on passing his order on the application dated 15<sup>th</sup> February, 2020, comes to a conclusion that any moneys are payable by the respondents to the petitioner, then the same shall accordingly be adjusted offset against the maintenance charges of approximately Rs.20 Lacs payable by the petitioner to the respondents.

4           The petitioner is directed to pay the Municipal

Corporation of Greater Mumbai property taxes of Rs.3,38,734/- along with interest within a period of 30 days of this order and if this amount is already paid, then the petitioner is required only to produce the necessary proof of such payment having been made to the learned Sole Arbitrator.

5           The petitioner is directed to provide full and free uninterrupted access to the service floor to respondent No.1 society. The directions to undertake necessary repair works as contemplated in clause (c) of the order dated 8<sup>th</sup> July, 2020 passed by the learned Sole Arbitrator is set aside. The respondents would be at liberty to undertake necessary steps in the Service Floor as they deem fit and proper at their cost in accordance with the approved plans. The learned Sole Arbitrator would determine the claim of the petitioner to seek action in restitution to recover the alleged monies paid as consideration to the respondents under the Development Agreement dated 3<sup>rd</sup> November, 2007 for exclusive use of the service floor.

6           The petitioner shall, within a period of eight weeks from today, execute Permanent Alternate Accommodation Agreements

pursuant to possession letters issued to respondent Nos.2 to 9 respectively and for the area of each flat as per approved plans annexed to the occupation certificate dated 10<sup>th</sup> December, 2012 on standard terms and conditions, save and except respondent No.5 i.e. Mrs. Mrudul M. Vora, the owner of flat No.801 and respondent No.3 i.e. Mr. Chetan R. Sheth, the owner of flat No. 402. The stamp duty, registration charges and other miscellaneous expenses for execution of Permanent Alternate Accommodation Agreements shall be solely borne by the members of Respondent No.1. However, the said members of respondent No.1 may claim reimbursement of the same before learned Arbitrator, who shall decide the said issue on its own merits after giving the parties an opportunity of leading evidence in support of their respective case. The claim of the respondents as regards execution of Permanent Alternate Accommodation Agreements in respect of Flat Nos. 402 and 801 in their favour, would be decided by the learned Sole Arbitrator at the time of final hearing of the arbitration dispute between parties after giving the parties an opportunity of leading evidence in support of their respective case.

7                    The present petition is disposed of in aforesaid terms. No

order as to costs.

8           I must mention that I had enquired from the parties if there was a possibility of settling the disputes between them. Both the parties have shown interest in settling the disputes and have agreed that they are willing to go for mediation in this regard before Dr. Milind Sathe, a senior counsel of this Court, to try and see if the disputes can be settled. In these circumstances, this Court requests Dr. Sathe to enter upon the mediation between the petitioner and the respondents herein to see if the disputes between the parties can be settled. Subject to the convenience of Dr. Sathe, the parties are directed to appear before him on 3<sup>rd</sup> February, 2021 at 5.30 p.m. in his chamber after which Dr. Sathe shall give all further directions. It is agreed that the costs of the Mediator, if any, shall be borne equally by the parties. It is needless to clarify that merely because the parties have gone for mediation, does not mean that the arbitration shall not proceed. It shall proceed notwithstanding the fact that the parties are before the Mediator and trying to settle the disputes.

9           This order shall be digitally signed by the Private

Secretary /Personal Assistant of this Court. All concerned shall act on production by fax or e-mail of a digitally signed copy of this order.

*(B. P. COLABAWALLA, J. )*