

Sayali

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

**COMM. ARBITRATION APPLICATION NO. 610 OF 2026
WITH
COMM. ARBITRATION PETITION NO.1030 OF 2026(NO.1030)**

Urban Infrastructure Trustees Limited ... Applicant

V/s.

Neelkanth Mansions and Infrastructure
Pvt Ltd

... Respondent

Mr. Aditya bapat with Mr. H. Bhati i/b Junnarkar and Associates, for Applicant.

Mr. Gaurav Joshi, Senior Advocate with Kazan Shroff Sharad bansal with Murtuza Federal with R. Mulla Feroze, Shantanu Shrikhande i/b Federal and Company, for Respondent no. 2.

Ms. J. S. Kini with Mr. Aum Kini with Mr. Parth Kini i/b Sapna Krishnappa, for Respondent no. 3.

CORAM : AMIT BORKAR, J.

DATED : OCTOBER 22, 2026

PC.:

1. The present Application is filed under Section 11 of the Arbitration and Conciliation Act, 1996 (“the Act”), seeking the appointment of an Arbitrator for adjudication of the disputes and differences stated to have arisen between the parties under the Agreement dated 18 October 2008.

2. The arbitration agreement between the parties is contained in Clause 19.3 of the said Agreement, a copy of which is annexed at pages 87 to 88 of the Application. For the sake of brevity, the said

clause is not reproduced herein. It is sufficient to observe that this Court has jurisdiction to entertain and decide the present Application.

3. The existence of the arbitration agreement between the parties is not in dispute. The principal question that arises for consideration is whether the issues identified in paragraph Nos. 12 and 4 of the respective orders passed by the Supreme Court in Miscellaneous Application Nos. 2256–2257 of 2026 in Special Leave Petition (Civil) Nos. 18578–18579 of 2025 and in Special Leave Petition (Civil) Nos. 18578–18579 of 2025, dated 05 August 2025, are required to be decided as preliminary issues.

4. Having considered the orders passed by the Supreme Court in both the aforesaid proceedings, I am of the view that the issues identified therein ought to be considered and decided as preliminary issues by the Arbitral Tribunal. Accordingly, the Learned Sole Arbitrator is requested to take up the said issues as preliminary issues and decide them in accordance with law.

5. All other questions relating to the merits of the disputes between the parties are expressly kept open for consideration and adjudication by the Learned Sole Arbitrator. No opinion is expressed by this Court on the merits of the respective claims and contentions of the parties.

6. The record indicates that the Applicant invoked the arbitration agreement by issuing a notice dated 22 January 2025.

7. Upon consideration of the material placed on record, I am satisfied that the Applicant has duly invoked the arbitration

agreement in accordance with the procedure contemplated therein.

8. Although the existence of the arbitration clause is not disputed, an objection has been raised concerning the impleadment of individual directors as parties to the arbitral proceedings. The said objection, if raised before the Arbitral Tribunal, shall be considered and decided by the Learned Sole Arbitrator in accordance with law. The appointment of the Arbitrator by this Court shall not be construed as an expression of opinion on the maintainability of the claims against the individual directors or on their liability, if any. The Arbitrator shall decide the objection independently, without being influenced by the order of appointment passed by this Court. All contentions of both parties in this regard are kept open.

9. In view of the aforesaid discussion, this Court is satisfied that a valid and subsisting arbitration agreement exists between the parties and that the same has been duly invoked by the Applicant. It is, therefore, appropriate to refer the disputes and differences arising out of or in connection with the Agreement dated 18 October 2008 to arbitration before a Sole Arbitrator.

10. In the aforesaid circumstances, the present Application under Section 11 of the Act deserves to be disposed of by passing the following order.

A) **Mr. Justice Shiavax Jal Vazifdar**, former Chief Justice of the Punjab and Haryana High Court, is hereby appointed as the Sole Arbitrator to adjudicate upon the disputes and differences between the parties arising out of and in connection with the aforesaid Agreement.

Office Address: 6 and 12A, Mansion Belvedere, 1st Floor, 107, Maharshi Karve Road, Next to Aayakar Bhuvan, Mumbai.

Mobile No.: 9820102088

Email: shivaxvazifdar@gmail.com

B) The Advocates for the Applicant shall communicate a copy of this Order to the Learned Sole Arbitrator within a period of one week from today. The Applicant shall also furnish to the Arbitral Tribunal the contact details and communication particulars of all the parties, along with a copy of this Order.

C) The Learned Sole Arbitrator is requested to forward the statutory Statement of Disclosure under Section 11(8) read with Section 12(1) of the Act to the Advocates for the Applicant, so as to enable them to place the same on record before the Registry of this Court. The Registry shall retain the said Statement in the file of the present Application. The Advocates for the Applicant shall furnish a copy thereof to the Advocates for the Respondents.

D) The parties shall appear before the Learned Sole Arbitrator on such date and at such place as may be notified by the Learned Sole Arbitrator, for obtaining appropriate directions regarding the conduct of the arbitral proceedings. Such directions may include the schedule for filing pleadings, examination of witnesses, if any, and the dates of hearings.

At the said meeting, the parties shall furnish to the Arbitral Tribunal valid and functional email addresses, together with the mobile and landline telephone numbers of their respective

Advocates. Communications relating to the arbitral proceedings sent to the email addresses so furnished shall be treated as valid service of correspondence in connection with the said proceedings.

E) The costs and fees of the arbitration, including the fees of the Arbitral Tribunal, shall initially be borne equally by the parties. The question of the ultimate liability for such costs and fees shall remain subject to the final Award that may be passed by the Arbitral Tribunal.

11. The Petition filed under Section 9 of the Act shall be treated as an application under Section 17 of the Act before the Arbitral Tribunal. The Arbitral Tribunal shall consider and decide the said application in accordance with law.

12. The Learned Sole Arbitrator shall be at liberty to adjudicate upon the claims and counterclaims, if any, and to determine all questions arising on the merits of the disputes between the parties, in accordance with law and subject to the directions contained in this Order.

13. All steps and actions required to be taken pursuant to this Order may be undertaken on the basis of a downloaded copy of this Order as made available on the official website of this Court.

14. The Arbitration Application stands disposed of in above terms.

(AMIT BORKAR, J.)