

COMM ARBITRATION PETITION (L) NO.16181 OF 2026

WITH
COMM ARBITRATION APPLICATION NO.573 OF 2026

Mr. Hitesh Solanki i/b Hitesh & Associates, for
Respondent No.1.

DATED : SEPTEMBER 24, 2026

PC.:

1. The present Petition has been filed under Section 9 of the Arbitration and Conciliation Act, 1996 (“the Act”), seeking various interim measures, including a direction for delivery of possession of Flat No. 502, which forms the subject matter of the agreement executed between the Petitioners and the Respondents.

2. Learned Advocate appearing for the Petitioners, on instructions, submits that, insofar as the reliefs sought under prayer clauses (c) and (d) are concerned, the Petitioners shall seek appropriate reliefs before the learned Arbitral Tribunal. As regards prayer clause (a), by which the Petitioners seek delivery of

possession of the said Flat, it is submitted that the liability of the parties towards payment of GST is presently a matter of dispute between them. Although the agreement executed between the parties expressly provides that the liability towards payment of GST is to be borne by the Petitioners, the agreement does not specifically stipulate the stage or point of time at which such GST liability is required to be discharged.

3. In the reply filed by the Respondent-Developer, it has been stated that, if the Petitioners furnish an undertaking before this Court acknowledging and accepting their liability towards payment of GST, the Petitioners shall discharge such liability as and when the Respondents become liable to pay the same. In view of the said statement, the Respondent-Developer has stated that it has no objection to the Petitioners being put in possession of Flat No. 502 in terms of prayer clause (a), subject to the aforesaid undertaking.

4. During the course of hearing, however, it has been brought to the notice of the Court that the Petitioners intend to sell Flat No. 502. In these circumstances, the undertaking furnished by the Petitioners would operate as an undertaking given by the Petitioners and, by itself, may not bind a third-party purchaser in the event the Flat is subsequently sold or transferred. The rights of the Respondent-Developer in respect of the GST liability therefore require to be adequately protected. It is consequently necessary to impose an appropriate condition governing any subsequent sale or transfer of the said Flat.

5. Having regard to the aforesaid circumstances, and particularly the statement made by the Respondent-Developer as well as the undertaking furnished by the Petitioners, the Petition can be allowed to the extent of prayer clause (a). The reliefs sought under prayer clauses (c) and (d), however, are matters which the Petitioners have agreed to pursue before the learned Arbitral Tribunal. Accordingly, the following order is passed:

(i) The Petition is allowed in terms of prayer clause (a), subject to the directions contained hereinbelow.

(ii) Insofar as prayer clauses (c) and (d) are concerned, it shall be open to the Petitioners to seek appropriate reliefs before the learned Arbitral Tribunal.

All rights and contentions of the parties are expressly kept open for being urged and adjudicated before the learned Arbitral Tribunal. The undertaking dated 27 August 2026 furnished by the Petitioners is accepted and taken on record. The said undertaking is marked as “X” for identification. The acceptance of the undertaking shall be without prejudice to the rights and contentions of the parties before the learned Arbitral Tribunal.

6. It is, however, made clear that if the Petitioners propose to sell, assign, transfer or otherwise create any third-party interest in Flat No. 502, which is the subject matter of the present Petition, the Petitioners shall, prior to effecting such sale, assignment, transfer or creation of any third-party interest, discharge the GST liability payable by them in respect of the said Flat. This condition

is imposed so as to ensure that the Respondent-Developer is not prejudiced by any subsequent transfer of the Flat to a third party and that the undertaking furnished before this Court is not rendered ineffective by such transfer.

7. The Respondents shall hand over and deliver vacant possession of Flat No. 502 to the Petitioners within a period of two weeks from today. The said direction shall be complied with within the aforesaid period, subject to the terms and conditions recorded herein.

8. Prayer clause (a) is accordingly allowed to the extent of the relief seeking delivery of possession of Flat No. 502. The Respondents shall comply with the said direction and hand over possession of the said Flat to the Petitioners within a period of two weeks from today.

9. The Commercial Arbitration Petition and the Commercial Arbitration Application stand disposed of in the aforesaid terms.

10. All questions, disputes and contentions not expressly decided by this order are kept open for consideration by the learned Arbitral Tribunal in accordance with law..

(AMIT BORKAR, J.)