

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

ARBITRATION PETITION NO.16 OF 2015

Moraj Infratech Pvt. Ltd.

..... Petitioner

V/s

Team Universal Infra-tech Pvt. Ltd.

..... Respondent

Mr. Vishal Kanade a/w Ms. Sneha Mehta a/w Mr. Rohan Sathaye i/b
M/s. Wadia Ghady & Co. for Petitioner.
Mr. Santosh Mishra a/w Mr. Nilesh Parekar for Respondent.

CORAM : A.A. SAYED, J.

DATED : 2 MARCH 2015.

P.C.

1 The above Arbitration Petition has been filed under section 11(5) of the Arbitration & Conciliation Act, 1996 seeking appointment of Arbitrator.

2 On 9 September 2010 under a registered Lease Agreement, Maharashtra Airport Development Company Ltd. ('MADC' for short) leased certain land to the Petitioner for the purposes of constructing a residential township in MIHAN notified area in Nagpur. The Respondent submitted a proposal to undertake the project and the Petitioner agreed to appoint the Respondent as a Contractor to carry out the construction of the residential township. The Petitioner and the Respondent executed Letter of Intent (LOI)

dated 9 November 2010 and Term Sheet dated 19 April 2011. According to the Petitioner there were various breaches of the terms and conditions of the LOI and the Term Sheet and the Respondent was unable to meet its obligations and vacated the property in question. The Petitioner thereafter engaged the services of another Contractor for which they have allegedly incurred additional costs. The correspondence annexed to the Petition (e-mails) discloses that the parties had agreed to refer the disputes to Arbitration, however they were not able to agree on the appointment of a particular Arbitrator. By their Advocate's notice invoking arbitration, the Petitioner had suggested the name of three Arbitrators and called upon the Respondent to choose either of three Arbitrators to act an Arbitrator. To this notice there was no Reply by the Respondent. The correspondence prior thereto reveals that the Respondent had suggested the name of Mr. Sinha to act as Arbitrator. Inasmuch as there was no Reply to the notice invoking arbitration, the Petitioner has filed the present Petition for appointment of an Arbitrator under section 11(5) of the Arbitration & Conciliation Act, 1996. An Affidavit-in-Reply has been filed on behalf of the Respondent contending that since the project site is in Nagpur, the Nagpur Bench of this Court alone has territorial jurisdiction and the cause of action has also arisen in Nagpur.

3 It is an admitted position that the LOI dated 9 November 2010 and the Term Sheet dated 19 April 2011 were executed at Vashi, Navi Mumbai. The

fact that the project site is in Nagpur cannot be a determinative factor to hold that the Nagpur High Court would have exclusive jurisdiction. The claim is not that of recovery of possession or rent of property. In any event, it can hardly be disputed that part of the cause of action has arisen in Navi Mumbai. In the circumstances, I find no merit in the contention on behalf of Counsel for the Respondent that the Nagpur Bench of this Court alone would have jurisdiction. In my view, this Court (Principal Bench) on the appellate side would certainly have jurisdiction to entertain the present Petition.

4 Learned Counsel for the Petitioner has pointed out that as a matter of fact even the registered office of the Respondent is in Hyderabad and not in Nagpur and therefore the insistence of the Respondent that the Arbitration proceedings be held in Nagpur is curious. Learned Counsel for the Petitioner urged that either of the three Advocates as mentioned in the notice invoking Arbitration be appointed as an Arbitrator or such other person be appointed as this Court deems fit and proper.

5. In light of the above discussion and since the parties have not able to arrive at a consensus, I appoint Counsel Mr. Farhan Dubhash to be the Arbitrator to adjudicate the disputes and differences between the parties under the Arbitration & Conciliation Act, 1996.

6 Registry to communicate a copy of this order alongwith the Memo of
Address of the parties to Counsel Mr. Farhan Dubhash.

7 The Petition to stand disposed of accordingly.

(A.A. SAYED, J.)

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