

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

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**CIVIL APPLICATION NO. 18 OF 2014
IN
ARBITRATION PETITION NO.38 OF 2005**

CAPITAL CONSTRUCTIONS & Anr. .. Applicants

CAPITAL CONSTRUCTIONS & Anr. .. Petitioners

Vs.

The Nashik Zilla Kanda Batata Utpadak
Sahakari Sanstha Maryadit .. Respondent

....

Ms.Uma Sharma i/b. M/s.Dharam & Co., Advocate for the Applicants.
Mr.P.N. Joshi, Advocate for the Respondent.

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CORAM : A.A. SAYED, J.

DATED : FEBRUARY 13, 2015.

P.C. :

This Civil Application is taken out seeking following prayers:

“a) That this Hon'ble Court be pleased to reappoint Mr.Justice S.K. Shah (Retired) as presiding arbitrator and discharge Mr.Vasant Ambadas Garge (Retired District Judge) as presiding arbitrator in the above Arbitral reference.

b) Such other and further relief as this Hon'ble Court may deem fit and proper in the nature and circumstances of the case.”

2 On 13rd April, 2006, an order was passed by this Court appointing Mr.Milind Tare and Mr.Jayant Pawar as Arbitrators. Mr.Justice B.C. Gadgil (Retired) was appointed as a Presiding Arbitrator. Mr. Justice B. C. Gadgil (Retired) thereafter on account of his health expressed his inability to preside over the Arbitral reference. By an order dated 30th September, 2010, of this Court Mr. Justice S. K. Shah (Retired) was appointed in place of Mr. Justice B.C. Gadgil, as the Presiding Arbitrator. Thereafter, Mr. Justice Shah (Retired) expressed his inability to attend the Arbitration proceeding at Nashik, as he was stationed in Mumbai. On 19th August, 2013, this Court appointed Mr. Vasant Ambadas Gadgil, District Judge (Retired), as a Presiding Arbitrator. Mr. Vasant Ambadas Gadgil has also now expressed his inability to continue as a Presiding Arbitrator, in view of his ill health and hospitalization.

3 Learned counsel for the Applicants states that Mr. Justice S.K.Shah is now willing to be the Presiding Arbitrator in place of Mr. Vasant Ambadas Gadgil, District Judge (Retired), as the Presiding Arbitrator. Learned Counsel for the Respondent, however, states that it would be appropriate that instead of Mr. Justice S.K.Shah (Retired), who is stationed at Mumbai and since the arbitration is to be held at Nashik, some other person be appointed as a Presiding Arbitrator.

He has suggested the names of a couple of other persons to be appointed as Presiding Arbitrator, which are not acceptable to the learned Counsel for the Petitioner. The learned Counsel for the parties now state that they leave it to this Court to appoint the Presiding Arbitrator, as they are unable to arrive at a consensus on the name of the Presiding Arbitrator.

4 In the circumstances, Shri P.N. Karhadkar, retired District Judge, is appointed as Presiding Arbitrator.

5 Registry shall communicate a copy of this order to Shri P.N. Karhadkar, retired District Judge, Flat No.17, 'Shrimant Chintamni CHS', Nasik Road, Nashik 422 101.

6 Civil application is disposed of accordingly.

(A.A. SAYED, J.)