

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

ARBITRATION APPLICATION NO.4 OF 2015

Vennalakanti Subramanyam and Ors.	...	Applicants
versus		
Sav Steels Pvt. Ltd.	...	Respondent

Mr. Jaydeep Mitra i/by Ms. Sabina Mahadik, for Applicant.
None for Respondent.

CORAM: S.J. KATHAWALLA, J.

DATE: 4th MARCH, 2015

P.C.:

1. By the above Arbitration Application, the Applicants seek appointment of a Sole Arbitrator under Section 11 of the Arbitration and Conciliation Act, 1996 (the Act).
2. By an agreement dated 31-07-2010, the Respondent agreed to buy shares from the Applicants in respect of the Company – Sesha Saila Power and Engineering Pvt. Ltd. Clause 13.2 of the said Agreement pertains to arbitration. The said Clause is reproduced hereunder :

“13.2 Governing Laws and dispute resolution : This Agreement shall be governed and construed in accordance with the laws of India. The parties hereby irrevocably submit to the exclusive jurisdiction of the Courts of Mumbai. All disputes arising in connection with the present Agreement including the

question of its validity will be referred to Arbitration under the Arbitration and Conciliation Act, 1996 and all amendments and/or modification made thereto from time to time. The venue for Arbitration will be in Mumbai, India”.

2. Admittedly, disputes arose between the parties and infact, the Respondent filed an Application under Section 9 of the Act before this Court being Arbitration Petition No.327 of 2011, which was disposed of by an order dated 07-12-2011. The Applicants by its letter dated 04-06-2012 addressed to the Respondent invoked the arbitration clause. However, the Respondent failed and neglected to respond to the same. The Applicants have therefore, filed the above Arbitration Application seeking appointment of an Arbitrator under Section 11 of the Act. None appear for the Respondent though served.

3. From the aforestated facts, it is clear that the Respondent has failed to agree to refer the disputes admittedly arisen between the parties to arbitration, despite the Respondent itself having earlier filed an Arbitration Petition under Section 9 of the Act and obtaining reliefs therein. In view thereof, the following order is passed :

(i) Mr. Farhan Dubash, Advocate, is appointed as a sole arbitrator to decide the disputes between the parties arising out of the Agreement dated 31-07-2010 (Exhibit A to the above Application).

(ii) A copy of this order shall be forthwith forwarded by Speed Post A.D., to the Respondent by the Advocate for the Applicants.

(iii) The above Arbitration Application is accordingly disposed of.

(S.J.KATHAWALLA, J.)