

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

MISCELLANEOUS CIVIL APPLICATION (ARBN) NO.1277/2014

M/s. Rahi Nirman Infrastructure Pvt Ltd.

..Versus..

M/s. Roman Tarmat Ltd. and others

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

CORAM : Z.A. HAQ, J.

DATE : 17.7.2015

Heard Shri N.C. Phadnis, the learned advocate for the applicant, Shri K.R. Lule, the learned advocate for the non-applicant no.1 and Shri A.A. Kathane, the learned advocate for the non-applicants 2 and 3.

The applicant has filed this application under Section 11 of the Arbitration and Conciliation Act, 1996 praying that an Arbitrator be appointed to resolve the dispute between the applicant and the non-applicant no.1.

Shri Kathane, the learned advocate for the non-applicants 2 and 3 submits that the non-applicants 2 and 3 have been unnecessarily impleaded as party to the application. It is submitted

that the dispute is between non-applicant no.1 and the applicant; and the non-applicants 2 and 3 have nothing to do with the dispute between them. The agreement dated 2nd December, 2012 placed on the record by the applicant also shows that it is between the non-applicant no.1 and the applicant; and the non-applicants 2 and 3 are not party to the agreement. The applicant had issued notice dated 17th September, 2014 only to the non-applicant no.1 asking the non-applicant no.1 to make the payment within 30 days. Though copy of the notice appears to have been sent to the officers of the non-applicants 2 and 3, there is nothing on the record to show that the applicant is claiming reliefs against the non-applicants 2 and 3.

The learned advocates for the applicant and the non-applicant no.1 agree that the dispute raised by the applicant is covered by the arbitration clause and the claim of the applicant is a live claim. The applicant and the non-applicant no.1 agree that the dispute is arbitrable. They also agree that Shri V.G. Palshikar, former Judge of this Court, be appointed as the Arbitrator to resolve the dispute between the applicant and the non-applicant no.1. The applicant and the non-applicant no.1 agree that the arbitration may be conducted at Mumbai. Hence, the following order :

- (i) Shri V.G. Palshikar, the former Judge of this Court, is appointed as an Arbitrator to resolve the dispute between the applicant and the non-applicant no.1 as per Clause 23 of the agreement dated 2nd December, 2012 between the applicant and the non-applicant no.1.
- (ii) The applicant and the non-applicant no.1 shall deposit Rs.50,000/- (Rs. Fifty Thousand Only) each with the Registry of this Court as security for the fees of the learned Arbitrator within four weeks. This amount shall be kept with the Registry of this Court till the arbitration proceedings are concluded.
- (iii) The applicant and the non-applicant no.1 shall directly pay the fees to the learned Arbitrator as would be determined by the learned Arbitrator.
- (iv) The applicant shall pay process fees of Rs.5,000/- (Rs. Five Thousand Only) within four weeks.

Rule is made absolute in the above terms.

In the circumstances, the parties to bear their own costs.

JUDGE