

IN THE HIGH COURT OF BOMBAY AT GOA

APPLN. FOR APPOINTMENT OF ARBITRATOR NO. 10 OF 2016

AHS HOSPITALITY INDIA PVT. LTD.,	... Applicant
Versus	
DYNAMIC IT PARK DEVELOPERS PVT. LTD.,	... Respondent

Mr. Jehangir Jejeebhoy with Ms. Shafaq Uraizee Sapre and Ms. Yulette Coutinho, Advocates for the applicant.
Mr. Nilesh Takkekar, Advocate for the respondent.

Coram:- F. M. REIS, J.

Date:- 29th July, 2016

P.C.

Heard Mr. J. Jejeebhoy, learned counsel appearing for the applicant and Mr. N. Takkekar, learned counsel appearing for the respondent.

2. This is an application for appointment of an Arbitrator under Section 11(6) of the Arbitration and Conciliation Act, 1996.

3. Upon hearing the learned counsel appearing for the applicant and the respondent, it is not disputed that there is an arbitration clause in the agreement executed between the parties. It is not disputed that the alleged dispute raised by the applicant arises from such agreement. It is further not disputed that the dispute sought to be raised is covered by the arbitration clause. The arbitration clause

which reads thus :

" Any dispute not amicably settled within thirty (30) days of the date when the dispute first arose, or such a longer period as may be agreed by the parties during the period of negotiation and conciliation, shall be fully and finally settled by arbitration in accordance with the Rules of the Mumbai Arbitration Centre (MAC) as are in force on the date when a notice of arbitration is received.

(a) The appointing authority shall be the MAC.

(b) The number of arbitrators shall be one unless either party to the arbitration requests otherwise, in which case there shall be three.

(c) The language to be used in the proceedings shall be English.

(d) The place of arbitration shall be Mumbai.

(e) The decision of the arbitration board shall be final and binding upon the parties and such decision shall be enforceable through any Courts having jurisdiction.

(f) The costs and expenses of arbitration shall be allocated and paid by the parties as determined by the arbitrators."

In terms of the said clause, the applicant has also served a notice to the respondent on 31.03.2016 and despite of such notice, no Arbitrator was appointed in terms of such agreement.

Hence, the applicant is entitled to seek for appointment of an Arbitrator in terms of Section 11(6) of the Arbitration and Conciliation Act, 1996. The learned counsel appearing for the respondent has also not disputed that the alleged dispute raised by the applicant can be adjudicated by an Arbitrator. It is also admitted by the parties that the arbitration proceedings have to be conducted in Mumbai in terms of the arbitration clause. In such circumstances, I pass the following :

O R D E R

(i) Shri Justice Mohit Shah (Retired Chief Justice of this Court) having office at 218-219, Commerce House, Nagindas Master Road, Fort, Mumbai 400 001 is appointed as a sole Arbitrator to adjudicate and decide the dispute between the parties.

(ii) All contentions of both the parties are left open.

(iii) The application stands disposed of accordingly.

F. M. REIS, J.

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