IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

ARBITRATION APPEAL NO.19 OF 2016

with

CIVIL APPLICATION NO.42 OF 2016

M/s Joy Builders .... Appellant

Vs.

Union of India & Another .... Respondents

WITH

ARBITRATION APPEAL NO.20 OF 2016

with

CIVIL APPLICATION NO.41 OF 2016

Joy Moolasariel Samuel .... Appellant

Vs.

Union of India .... Respondent

Mr. Sandesh Patil alongwith Ms. Anusha Amin, Advocate for the Appellants.

Ms. Jyotsna A. Pandhi, Advocate for Respondent no.1/UOI.

Coram : **Smt. R.P. SondurBaldota, J.**
Date : 14th October, 2016

P.C. :

1 The above two appeals arise out of the common order dtd. 16th February, 2016, by which the District Court, Thane in it's exercise of jurisdiction under Section 34 of the Arbitration and Conciliation Act setting aside the award passed by the sole Arbitrator and remanded the matter to the same Arbitrator i.e. Shri. A. Ravi Kishore for fresh hearing.

2. The Arbitration agreement, provides for appointment of the Arbitrator by the Chief Engineer (AF), Military Engineering Services. The Arbitrator is to be a Serving Officer. Since Mr. A. Ravi Kishore is no longer in service and as such cannot act as an Arbitrator, both the sides have filed the appeals for modification of the impugned order. The modification sought by them is of deletion of the direction of remand to the same Arbitrator and issuance of a direction to the respondent to appoint a Serving Officer as an Arbitrator. Ms. Pandhi states that she has received letter dtd. 13th October, 2016 from the Office of the Garrison Engineer (AF), Kolshet Road, Sandoz Baug Post, Thane stating that as per contract condition, the appointing authority of the Arbitrator is “Engineer-in-Chief, New Delhi” and it will take minimum 40-45 days for obtaining the name of Arbitrator from the authority. Since, there is no dispute as regards the appointing authority and appointment of Serving Officer as an Arbitrator to adjudicate the disputes between the parties, in my opinion, these

petitions can be disposed off with following order:

ORDER

1 The Appeals are partly allowed.

2 Paragraph 3 of the impugned operative order is modified to read as under. "Arbitral proceeding is remanded to the sole Arbitrator, to be appointed in accordance with the arbitration agreement between the parties, for reconsideration after hearing both the parties and after awarding opportunity to both the parties to lead evidence if they desire."

3 Respondent no.1 shall make the appointment within a period of 45 days from today.

4 In view of the disposal of the above appeals, the Civil Applications taken therein do not survive. The same are accordingly disposed off.

(Smt. R.P. SondurBaldota, J.)