

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
ARBITRATION APPLICATION NO. 59 OF 2016

Datamatics Global Services Ltd. ... Applicant

Versus

ITEK Business Solutions Pvt. Ltd. ... Respondent

Mr. Amir Arsiwala, for Applicant.
None for Respondent.

CORAM : S.J. KATHAWALLA, J.
DATED : 23rd MARCH, 2016

P.C.

1. On 18th March, 2016 this Court passed the following order :

“1. On 26th February, 2016 this Court passed an order, paragraph 3 of which is relevant and is reproduced hereunder :

“3. From the aforestated facts, it is clear that there exists a valid agreement between the parties to have their disputes, arising out of the agreement dated 7th May, 2012, referred to arbitration. The Applicant has invoked the arbitration agreement by its letter dated 3rd December, 2015. However, the Respondent has failed to respond to the said letter dated 3rd December, 2015. It is therefore clear that the Respondent has failed to appoint an Arbitrator to resolve their disputes. Hence, the following order :

i. The Court proposes to appoint Mr. Ankit Lohia, Advocate to decide the disputes of the Applicant and the Respondent arising out of the agreement dated 7th May, 2012. In view thereof, Mr. Ankit Lohia, Advocate shall submit disclosure under Section 11 (8) read with Section 12 (1) of Arbitration and Conciliation Act, 1996.

ii. The Advocates for the Applicant shall

forward a copy of this order to Mr. Ankit Lohia, Advocate as well as to the Respondents.

iii. All concerned to act on an ordinary copy of this order, duly authenticated by the learned Associate of this Court.

iv. Stand over to 4th March, 2016.”

2. Pursuant to the above order, Mr. Ankit Lohia, Advocate was appointed as an Arbitrator to resolve the disputes between the parties arising out of the Agreement 7th May, 2012. However, Mr. Ankit Lohia, Advocate has expressed his inability to act an Arbitrator in the matter. The Court therefore proposes to appoint Mr. Jimmy Avasia, Advocate to resolve the disputes between the parties arising out of the Agreement 7th May, 2012. In view thereof, Mr. Jimmy Avasia, Advocate shall submit disclosure under Section 11 (8) read with Section 12 (1) of Arbitration and Conciliation Act, 1996.

3. The Advocate for the Applicant shall forward a copy of this order to Mr. Jimmy Avasia, Advocate as well as to the Respondent.

4. All concerned to act on an ordinary copy of this order, duly authenticated by the learned Associate of this Court. Stand over to 23rd March, 2016.”

2. Pursuant to the above order, Mr. Jimmy Avasia, Advocate has filed disclosure under Section 11(8) read with Section 12(1) of the Arbitration and Conciliation Act, 1996. The learned Advocates for the parties have gone through the disclosure and have informed the Court that they have no objection qua the

disclosure and appointment of Mr. Jimmy Avasia. The disclosure is taken on record and the following order is passed by consent :

- i. The disputes arising out of the Agreement dated 7th May, 2012 between the parties are referred to the sole Arbitration of Mr. Jimmy Avasia, Advocate.
- ii. The parties shall appear before the learned Arbitrator in his chambers, on 4th April, 2016 at 5.00 p.m. and obtain necessary directions.
- iii. The cost of arbitration shall initially be borne by the parties equally.
- iv. All contentions of the parties are kept open.
- v. The venue of Arbitration shall be at Mumbai.

3. In view of this order, the above Arbitration Application is disposed of. A copy of this order shall be forthwith forwarded to the learned Advocate for the Respondent as well as to the Respondent.

(S.J.KATHAWALLA, J.)