

IN THE HIGH COURT OF BOMBAY AT GOA

APPLN. FOR APPOINTMENT OF ARBITRATOR NO. 6 OF
2017

M/S. RAM CLEANSERS AND DEVELOPERS
PVT. LTD., REP. BY ITS AUT. SIG.,
SHRI. AMINDERJEET SINGH ARNEJA., ... Applicant
Versus
STATE OF GOA, THR. DIRECTOR OF
TOURISM., ... Respondent

Mr. J. Ramaiya, Advocate for the applicant.
Ms. Susan Linhares, Addl. Government Advocate for the
respondent.

Coram:- F. M. REIS, J.

Date:- 28th April, 2017

P.C.

Heard Mr. J. Ramaiya, learned counsel appearing for the
applicant and Ms. S. Linhares, learned Addl. Government
Advocate 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. The respondent has filed their reply opposing the said
application inter alia contending that the issue of payment has
already been settled and as such there is no dispute to be referred
to the Arbitrator. The learned counsel for the applicant however
disputes the said contention and points out that amounts have not
been paid and there are other claims raised by the applicant

based on the subject agreement. On perusal of the agreement executed between the parties, Clause 7 of the agreement reads thus :

"7. In the event of any question, dispute or difference of opinion arising under or out of or in any way relating to or concerning these presents or effects of these presents or in connection with the conditions herein contained or touching or concerning the meaning or effect thereof, or any other matter contained therein as to the rights, duties or liabilities of the parties hereto, howsoever, in connection with this agreement, the same shall be referred to the sole arbitration of a person appointed by the Secretary (Tourism) to the Government of Goa. The contractor shall not raise any objection to such appointment on the ground that the arbitrator so appointed is a Government servant and that he had dealt with the matter to which this agreement relates or that in the course of his duties as such Government servant, he had expressed his views on all or any of the matters in dispute or difference. In the event of such arbitrator being transferred or vacates his office or refuses or is unable to act as such for any reason whatsoever, it shall be open to the Secretary (Tourism) to the Government of Goa to appoint another person in his place. The arbitrator so appointed shall be entitled to proceed with the reference from the stage at which it was pending. The arbitrator may, with the consent of both the

parties to these presents, extend the time for making the award. The award of the arbitrator shall be final and binding on the parties to these presents. Save as aforesaid, the Arbitration and Conciliation Act, 1996 (Central Act 26 of 1996) and the rules made there under shall apply to the arbitration proceedings under this clause."

3. On going through the said clause, the fact that there is an Arbitration clause in the agreement cannot be disputed. Though it is contended by the learned Addl. Government Advocate appearing for the respondent that the amount payable to the applicant has already been settled, nevertheless, this aspect has not been accepted by the applicant. Apart from that, the applicant has also raised dispute alleging that the agreement ought to have been renewed and that the applicant is entitled for compensation which is seriously disputed by the learned Addl. Government Advocate appearing for the respondent.

4. Considering that there are disputes between the parties which have to be adjudicated by an Arbitrator, without going into the merits of the rival claims with that regard, I find that as the Arbitrator was not appointed in terms of the arbitration clause despite of the notice issued to the respondent, I find that the applicants are entitled for appointment of an Arbitrator to adjudicate the dispute raised by the applicant. Hence, I pass the

following :

O R D E R

(i) Justice N. A. Britto, Former Judge of this Court is appointed as a Sole Arbitrator to decide the dispute between the parties.

(ii) Needless to say, all contentions of both the parties on the rival claims are left open.

(iii) The application stands disposed of accordingly.

F. M. REIS, J.

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