

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ARBITRATION PETITION NO. 16 OF 2017
WITH
ARBITRATION PETITION NO. 15 OF 2017
WITH
ARBITRATION PETITION NO. 18 OF 2017
WITH
ARBITRATION PETITION NO. 19 OF 2017

Mr. Girish Thigle a/w Mr. Tejesh Dande a/w Mr. Bharat Gadhavi,
for petitioner i/b Tejesh Dande & Associates, for applicant.
Mr. N.N. Singh, for respondents No. 2 to 5.

DATE : 7th JULY, 2017.

Heard Mr. Thigle, learned Counsel for applicant and Mr. Singh, learned Counsel for respondents No. 2 to 5.

2. By these Petitions under Section 11 of the Arbitration and Conciliation Act, 1996 [for short 'Act'], the petitioner in each Petition has prayed for appointing an independent Arbitral Tribunal for adjudicating the disputes and differences inter se between the parties.

3. Mr. Thigle has invited my attention to clause 30.1 and 30.2 as contained in Exhibit A to the Petitions which is extract of accepted tender for the contracts. He also invited my attention to the Government Resolution dated 27th August, 2014 issued by Law and Judiciary Department of Government of Maharashtra. He relied upon Section 7 of the Act as also decisions of this Court:

- [1] Harbhajan Sarabjeet & Associates Vs. Maharashtra Krishna Valley Development Corporation & Anr, 2010 (6) Bom. C.R. 20 and**
- [2] B. Narayan & Associates Vs. City of Nagpur Corporation, 2010 B.C.I., 1.**

to contend that clauses 30.1 and 30.02 constitute arbitration agreement.

4. On the other hand, Mr. Singh raised preliminary objection about maintainability of the Petitions under Section 11 of the Act on the ground that clauses 30.1 and 30.2 do not constitute arbitration agreement. He relied upon decision of this Court in **Arbitration Application No. 117 of 2013 in the case of B.T. Patil Construction & Swapnali Joint Venture & Ors. Vs. Maharashtra Krishna Valley Development Corporation, Pune & Ors** decided on 11th July, 2014 [Coram: R.D. Dhanuka, J.].

5. After arguing the Petitions for quite some time, Mr. Thigle seeks permission to withdraw these Petitions with a liberty to adopt appropriate proceedings before appropriate forum. He

states that Petitioners will make application under Section 14 of the Limitation Act, 1963 for excluding time spent by petitioners in prosecuting these Petitions in the High Court.

6. On the motion made by Mr. Thigle, petitions are allowed to be withdrawn with liberty as prayed for. It is made clear that I have not examined merits of the case. Order accordingly.

[R.G. KETKAR, J.]