

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

IN ITS COMMERCIAL DIVISION

COMMERCIAL ARBITRATION PETITION NO.172 OF 2017

Capri Global Capital Limited	..Petitioner
Versus	
Monarch Bookefields LLP and others	..Respondents

**ALONGWITH
NOTICE OF MOTION NO.325 OF 2017**

**IN
COMMERCIAL ARBITRATION PETITION NO.172 OF 2017**

Mr. Ashok Govindram Narayani	..Applicant
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IN THE MATTER BETWEEN

Capri Global Capital Limited	..Petitioner
Versus	
Monarch Bookefields LLP and others	..Respondents

Dr. Birendra Saraf a/w Mr. Ranjeev Carvalho, Mr. Sunil Tilokchandani and Priya Diwadkar i/by Manilal Kher Ambalal & Co., for the Petitioner.

Mr. Mahesh Menon a/w Mr. Dipen Furia i/by M/s. Shah & Furia Associates for the Respondent Nos.1 to 5, 7 to 9(1).

Ms. Gargi Bhagwat a/w Vishakha Potdar i/by M/s. Divekar and Bhagwat & Co., for the Respondent No.11 – ICICI Bank.

Mr. Sandesh Shukla a/w Mr. Abhishek Adke for the Respondent No.6.

Mr. Sandesh Shukla a/w Mr. Vikrant Zunjarrao i/by Zunjarrao & Co., for the Respondent No.9(2).

Mr. Rafeeq Peermohideen i/by Mr. Jeetendra Sachdev for the Respondent No.9(5).

Mrs. Kavita Ambekar, 1st Assistant to Court Receiver - present.

**CORAM : G. S. KULKARNI, J
DATE : 8th AUGUST, 2017**

PC.

1 This petition is pending for quite sometime. There are several orders which are passed from time to time protecting the interest of the petitioner and that of the parties pending adjudication of the dispute in this arbitration proceedings.

2 The learned counsel for the parties on the backdrop of the previous orders agree that the dispute be referred for arbitration. The parties agree that Mr. Vikram Nankani, Senior Advocate be appointed as an arbitrator to arbitrate the disputes subject matter of the present proceedings. A copy of this order be forwarded by the parties to Mr. Vikram Nankani, Senior Advocate for a statement of disclosure under Section 11(8) read with Section 12(1) of the Arbitration and Conciliation Act, 1996 (For short "the Act") to be placed on record and for further orders to be passed.

3 As regards the issues as to disclosure as directed by this Court in the order dated 11.07.2017, it appears that substantially the parties have filed their respective affidavits and have made disclosures. It

was for the petitioner to point out what are the deficiencies if any and which would in that case be complied by the respondents. In my view, as the parties have reached a consensus to proceed for arbitration it is in their mutual interest that the learned arbitrator examines all these issues. In the circumstances, further adjudication of this petition filed under Section 9 of the Act would not be warranted. The parties would be left to agitate their respective claims before the learned arbitrator. All the contentions of the parties on merits are expressly kept open.

4 As regards the interim orders passed in this petition, the parties are agreeable that the same can be continued till the proceedings before the learned arbitrator are concluded. Mr. Mahesh Menon learned counsel for respondent Nos.1 to 5, 7 to 9(1) submits that this Court in the order dated 11.07.2017 had observed that the bailable warrant issued against the respondent Nos.4, 5, 7 and 8 be kept in abeyance though they had remained present in the Court on 11.07.2017, when the Court passed an order. As also the respondents had undertaken to remain present at today's hearing. Mr. Menon submits that these respondents further undertake to make themselves available as and when the learned arbitrator feels the necessity of these respondents to remain present. He therefore submits that the bailable warrant which has been kept in abeyance be recalled and cancelled. The submission of Mr. Menon is quite

reasonable. Dr. Birendra Saraf learned counsel for the petitioner fairly submits that there is no impediment in granting the request of Mr. Menon as the entire issue would be at large before the learned arbitrator. Accordingly, bailable warrant against Respondent Nos.4, 5, 6, 7, 8 and 9(2) shall stand cancelled.

5 Needless to observe that the parties would be at liberty to apply for further reliefs under Section 17 of the Act.

6 Accordingly, awaiting the disclosure of Section 11(8) read with Section 12(1) of the Act from the proposed learned sole arbitrator. Stand over to 21.08.2017.

7 Parties agree that the Notice of Motion No.325 of 2017 is required to be heard separately. List the Notice of Motion on 22.08.2017

[G. S. KULKARNI, J]