

## IN THE HIGH COURT OF JUDICATURE AT BOMBAY

## ORDINARY ORIGINAL CIVIL JURISDICTION

Commercial Arbitration Petition NO. 172 OF 2017

Capri Global Capital Limited

...Petitioner

*Versus*

Monarch Brookefields LLP And Ors.

...Respondents

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Ms.Priya Diwadkar i/b. M/s.Manilal Kher Ambalal & Co., for the  
Petitioner.

Mr.Dipen Furia i/b. Shah and Furia Associates, for Respondent Nos.1  
to 5, 7, 8, 9(1).

Ms.Bhagyashri Vishal i/b. Jitendra Sachdev, for Respondent No.9(5).

Mr.R.J.Agarwal, Respondent no.9(3) in person present.

Mr.S.R.Agarwal, Respondent no.9(4) in person present.

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**CORAM : G.S.Kulkarni, J.**

**DATE : 4<sup>th</sup> September, 2017**

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**P.C. :**

1. By an order dated 8 August 2017 this Court had proposed to appoint Mr.Vikram Nankani, Senior Advocate as an Arbitrator to adjudicate the disputes between the parties being subject matter of the present proceedings. Awaiting disclosure of the

learned proposed Arbitrator, as per the requirement of Section 12(1) of the Arbitration Act, this petition was adjourned.

2. Today the learned Counsel for the parties have placed on record the disclosure as made by the learned proposed Arbitrator Mr.Vikram Nankani as per the requirement of Section 11(8) read with Section 12(1) of the Arbitration and Conciliation Act,1996. The same is taken on record and marked "X" for identification.

3. The petition is accordingly disposed of by appointing Mr.Vikram Nankani, Senior Advocate, to arbitrate the dispute between the parties subject matter of the present proceedings. No costs.

4. Bailable warrants issued against respondent nos.9(3) and 9(4) are required to be cancelled. They, accordingly, stand cancelled.

**Show Cause Notice No.520 of 2017.**

5. As respondent nos.4 to 8 and 9(2) to (5) had not complied with the directions of this Court of filing affidavit of disclosure, this Court by an order dated 2 March 2017 and 24 March

2017, has issued a *suo motu* show cause notice, observing that these respondents are in contempt of the orders dated 15 March 2017 passed by this Court. Thereafter, these respondents have appeared as also they have placed on record affidavits of disclosure. By an order dated 8 August 2017 passed by this Court bailable warrants against respondent nos.4, 5, 6, 7, 8 and 9(2) were cancelled.

6. Today learned Counsel for respondent no.9(5) states that though respondent no.9(5) is in custody, however, the orders passed by this Court stand complied in view of the affidavit in reply dated 4 August 2017. Be that as it may, learned Counsel for the parties agree that now the learned Sole Arbitrator has been appointed to arbitrate the disputes between the parties and all these affidavits which are filed in the present proceedings which may be either on the merits of the disputes or affidavits of disclosure, can very well be the subject matter of consideration in the arbitration proceedings and for such appropriate reliefs the parties may seek.

7. The learned Counsel for the respondents submit that in view of the compliance of the order as the affidavits are filed, a lenient view be taken and the show cause notice be discharged. Considering that there is substantial compliance of the order passed

by this court, in the interest of justice, the show cause notice dated 24 March 2017 is required to be discharged.

8. Needless to observe that the petitioner would always be at liberty to move an appropriate application including seeking an affidavit from respondent no.9(5), if the same is not an adequate disclosure in the affidavit filed in this Court.

**[G.S.Kulkarni, J.]**