

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS COMMERCIAL DIVISION
COMMERCIAL ARBITRATION PETITION (L) NO. 367 OF 2017
ALONGWITH
COMMERCIAL ARBITRATION APPLICATION (L) NO. 136 OF 2017
Yogesh Premji Visaria & Anr. Petitioners
VERSUS
Rajlaxmi Developers & Ors. Respondents

Mr.V.R.Dhond, Senior Advocate, a/w. Mr.Ganesh Utangale, Mr.Suyash Gadre, i/b. Utangale & Co. for the Petitioners/Applicants.

Mr.Dipesh Siroya for the Respondent nos. 2, 3 and 6.

Mr.Kapil Moye, a/w. Mr.Ankur Kubal, Mr.Atul Kshatriya, i/b. Markand Gandhi & Co. for the Respondent nos. 4 and 5.

Mr.Rakesh Agarwal, i/b. Narayanan & Narayanan for the Respondent no.7.

CORAM : G.S.KULKARNI, J.
DATE : 19th SEPTEMBER, 2017

P.C.

Heard learned counsel for the parties. Commercial Arbitration Application (L) No.136 of 2017 is an application under section 11 of the Arbitration and Conciliation Act (for short the “Act”) praying for appointment of an arbitrator for adjudication of the disputes arising between the parties. Commercial Arbitration Petition (L) No.367 of 2017 is a petition filed under section 9 of the said Act seeking interim protective reliefs pending the arbitration proceedings. After these

proceedings were heard for sometime, it is felt appropriate that the disputes between the parties can be referred for arbitration of a sole arbitrator. The Court accordingly proposes to appoint Mr. Shailesh Shah, Senior Advocate of this Court as the sole arbitrator to arbitrate the disputes between the parties.

2. In the first instance, the proposed arbitrator will make a disclosure as per the requirement under section 11(8) read with section 12(1) of the Act thereafter enter upon reference. In the event if the disclosure is not made within a reasonable time or the disclosure records the inability of the proposed arbitrator to act as such, it will be open to the parties to apply to this Court for modification of the order.

3. As regards the petition filed under section 9 of the Act, it would be appropriate that the same be treated as an application of the petitioner under section 17 of the Act in the arbitration proceedings. The respondents shall file their replies to the said application before the learned arbitrator.

4. The parties shall appear before the learned arbitrator at the date fixed by him for which adequate notice be given to the all the parties.

5. Commercial Arbitration Petition (L) No.367 of 2017 and Commercial

Arbitration Application (L) No.136 of 2017 are accordingly disposed of in the aforesaid terms. No costs.

6. The ad-interim order dated 11th September, 2017 shall continue to operate till the section 17 application is decided by the learned arbitrator. All the contentions of the parties on merits of the matter are expressly kept open.

7. Copy of this order be forwarded to the learned sole arbitrator Mr.Shailesh Shah.

(G.S.KULKARNI, J.)