

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

ARBITRATION APPLICATION NO.303 OF 2016

Atul Agrawal)....Applicant
V/s.

Tirumala Properties & Ors.)....Respondents

Ms.Swapna Roopavate a/w Ms.Flora Jain i/by Tushar A.Goradia for applicant.

Mr.Shivanand Marbe i/by Sushil Nimbkar for respondents.

CORAM : K.R.SHRIRAM,J

DATE : 16.11.2017

P.C.:-

1 Mr.Shivanand Marbe, an advocate practicing in Pune having his office at Flat No.8, Anurag Apartments, Beside Marathe Nursing Home, Kothrud, Pune-411 038, Mobile No.9822078953, states that he has just been instructed by another Advocate Mr.Sushil Nimbkar, Mobile No.9657984727, to appear in this matter and seeks an adjournment.

2 Ms.Roopavate appearing for the applicant states that petition was served sometime in April-2017 and therefore, no adjournment should be granted. Ms.Roopavate is justified.

3 The arbitration agreement would be found in clause 25 of

the Memorandum of Understanding dated 21.3.2012 and the clause-25 reads as under :-

“In case of any dispute arises between the parties hereto out of these presents, the same shall be resolved through the sole arbitrator as per the provisions of the Arbitration and Conciliation Act, 1996 and such arbitration shall be held at Vashi, Navi Mumbai”.

4 Since the seat of arbitration has been agreed to be at Vashi, Navi Mumbai, technically this petition should have been filed in the appellate side of this court. Ms.Roopavate seeks leave to convert this petition under Section 11 on the appellate side of this court. Leave granted. Registry to make note of the same and do the needful within two weeks.

5 No reply has been filed. Even to the notice invoking arbitration, no reply has been filed.

I am satisfied that there is an arbitration agreement.

6 In the circumstances, following order is passed :-

(a) Mr.K.J.Paratwar, former District & Sessions Judge and former presiding officer of DRT-II having his office at Flat No.202, Building 56B, Chintamani Judges Society, Opp. Pratikshanagar BEST Dept, Sion (East), Mumbai-400 022, Mobile no.9322909779, is appointed as sole arbitrator to arbitrate on all disputes and

differences, including counter claim, if any, between the parties arising out of Memorandum of Understanding dated 21.3.2012 ;

(b) The fees, administrative expenses, typing charges and venue charges shall be shared equally between the parties and the same will be cost in the arbitral proceeding ;

(c) Within 4 weeks of receiving a copy of this order either from the advocates for petitioner or for respondents, the learned Arbitrator shall file with the parties, disclosure in writing as required under Section 11(8) read with section 12(1) of Arbitration and Conciliation Act 1996;

(d) All rights and contentions of parties are kept open, except on existence of arbitration agreement ;

(e) Application disposed accordingly.

(K.R.SHRIRAM,J)