

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS COMMERCIAL DIVISION
ARBITRATION APPLICATION NO.152 OF 2017**

Macawber Beekay Pvt. Ltd.	...	Applicant
versus		
EPC Constructions India Ltd.	...	Respondents

Mr. Satish Upadhyay, for Applicant.
None for Respondents.

CORAM: S.J. KATHAWALLA, J.

DATE: 22nd FEBRUARY, 2018

P.C.:

1. Perused the order dated 9th February, 2018. Paragraph 5 of the said order reads as under :

“5. It is therefore, clear that despite a valid and subsisting Arbitration Agreement between the Applicant and the Respondent, the Respondent has failed to appoint an Arbitrator to resolve their disputes. Hence, the following order :-

i) The Court proposes to appoint Dr. S. Radhakrishnan, Former Judge of this Court as the second Arbitrator to decide the disputes of the Applicant and the Respondent arising out of the Purchaser Order dated 21-02-2011 and General conditions of Contract.

ii) Dr. S. Radhakrishnan, Former Judge of this Court shall file his disclosure under Section 11(8) read with Section 12(1) of the Arbitration and Conciliation Act, 1996 as amended by the Arbitration and Conciliation (Amendment) Act, 2015.

ii) The Advocate for the Applicant shall serve a copy of this order on the proposed Arbitrator and also on the Respondent by Speed Post/Registered Post A.D.

Stand over to 22nd February, 2018. ”

2. The disclosure filed by Dr. S. Radhakrishnan, Former Judge of this Court, under Section 11 (8) read with Section 12 (1) of the Arbitration and Conciliation Act, 1996 as amended by the Arbitration and Conciliation (Amendment) Act, 2015 (3 of 2016) is taken on record.

3. Though a copy of the order dated 9th February, 2018 is served on the Respondents and an Affidavit proving service to that effect is filed in Court, the Respondent is not present in Court. In view thereof, I proceed to pass the following order :

(i) Dr. S. Radhakrishnan, Former Judge of this Court is appointed as a second arbitrator to decide the disputes between the Applicant and Respondent arising out of the Purchaser Order dated 21-02-2011 and General conditions of Contract.

(ii) The Arbitrator nominated by the Applicant and the Arbitrator appointed by the Court, shall appoint a third Arbitrator.

(iii) In view of this order, the above Arbitration Application is disposed of.

(iv) A copy of this order shall be forthwith served on the Respondent by the Advocate for the Applicant by Speed Post/Registered Post A.D. and/or by hand delivery at Essar House, Keshav Rao Khadye Marg, Mahalaxmi, Mumbai – 400 034 as

well as at Equinox Business Park, 3rd Floor, Tower No.2, Bandra Kurla Complex, LBS
Marg, Kurla (W), Mumbai – 400 070.

(S.J.KATHAWALLA, J.)