

Santosh

IN THE HIGH COURT OF BOMBAY AT GOA
APPLICATION FOR APPOINTMENT OF
ARBITRATOR NO.8 OF 2019

Junia Alva and another. Applicants.
Versus
Umiya Builders & Developers & Anr. Respondents.

Mr. Bhargav M. Khandeparkar, Advocate for the Applicants.

Mr. Ranaditya Subroto Banerjee, Advocate for the Respondents.

Coram : M.S. Sonak, J.

Date : 23rd August, 2019.

P.C.:

Heard Mr. Khandeparkar for the Applicants and Mr. Banerjee for the Respondents.

2. This is an application, seeking appointment of an arbitrator in terms of clause 12(x) of the Agreement for Sale dated 2nd March, 2016, to which, the Applicants and the Respondents are, admittedly, parties.

3. The Respondents have filed an affidavit-in-reply, in which, they do not dispute the existence of the arbitration agreement. But, the contention of the Respondents, as articulated by their learned Counsel Shri Banerjee is that there is really no dispute which has arisen between the parties and, therefore, there is no question of

appointment of an Arbitrator. Mr. Banerjee submits that the only claim of the Applicants is that one wall in the apartment, agreed to be sold to them, is required to be removed. He submits that the Respondents, without prejudice to their contention that in terms of the agreement they were not required to do so, have, in fact, agreed to remove the wall.

4. Mr. Khandeparkar submits that it is the case of the Applicants that they were promised an apartment which would have a large living room, without any partition. He submits that there is a column and, therefore, even removal of the wall will not result in the Applicants having an apartment which they had bargained for.

5. According to me, taking into consideration the rival contentions, it is apparent that there is a dispute which has arisen between the parties, which, in terms of the Agreement dated 2nd March, 2016, is required to be resolved by resort to arbitration. This is more so, because Mr. Khandeparkar, on behalf of the Applicants submits that since the Applicants have not got the apartment with the agreed specifications, they are entitled to repudiate the contract and seek refund of amounts paid. Mr. Banerjee disputes that the apartment is not in accordance with agreed specifications. All this makes it clear that dispute has arisen between the parties and a case is made out for appointment of arbitrator to resolve the same.

6. After expression of this opinion, the learned Counsel for the parties were offered an opportunity to suggest the name of an arbitrator who could be appointed in the matter. The learned Counsel for the parties have suggested name of Advocate Shri R. G. Ramani.

7. Shri R.G. Ramani, who is present in the Court, consents to be appointed as Arbitrator. He has, in presence of the Court, made inquiries about the parties and has stated that he will have no difficulties in accepting the appointment as arbitrator. He states that a statement of disclosure will be filed by him, in this Court, within one week.

8. Accordingly, Shri R.G. Ramani, learned Advocate of this Court is appointed as Arbitrator in the matter. The statement of disclosure may be filed by Advocate Shri Ramani within one week from today.

9. Fees of the Arbitrator will be governed by the provisions of the Arbitration and Conciliation Act, 1996 and Rules made thereunder.

10. The Application for Appointment of Arbitrator is disposed

of in the aforesaid terms.

11. All concerned to act on the basis of an authenticated copy of this order.

M.S. Sonak, J.