

Tauseef

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**ARBITRATION APPEAL NO.02 OF 2019
WITH
CIVIL APPLICATION IN ARA NO.23 OF 2018
IN
ARBITRATION APPEAL NO.02 OF 2019**

Mr. Bharat Mithalal Nagori ...Applicant
V/S.
Mr. Manik Nivrutti Kodre & Anr. ...Respondents

**WITH
CIVIL APPLICATION IN ARA NO.28 OF 2018
IN
ARBITRATION APPEAL NO.01 OF 2019**

Mr. Subhash Sitaram Goel & Ors. ...Applicants
V/S.
Mr. Manik Nivrutti Kodre & Ors. ...Respondents

**WITH
ARBITRATION APPEAL NO.01 OF 2019**

Mr. Subhash Sitaram Goel & Ors. ...Applicants
V/S.
Mr. Manik Nivrutti Kodre & Ors. ...Respondents

Mr. Karl Tamboly a/w. Mr. Malcolm Singanporia a/w. Mr. Vinayak Vengurlekar & Ms. Sneha Munj Nair I/b. Vengurlekar & Co. for Applicant.
Mr. Hiren Kamod I/b. Mr. Ashok Tajane for Respondent Nos.1, 2, 15 & 16.
Mr. Abhijit Kulkarni I/b. D.D. & Abhijit Associates for Respondent Nos.3, 4, 7 to 11.
Mr. Nikhil Chavan for Respondent Nos.5, 6, 14 to 16.

**CORAM : G.S. KULKARNI, J.
Date : 11th OCTOBER 2019.**

P.C. :

1. Heard learned counsel for the parties on these two appeals. These appeals challenge a common order dated 21 September 2017 passed by the learned District Judge Pune, whereby the applications moved on behalf of the applicants under Section 9 of the Arbitration and Conciliation Act, 1996 came to be rejected. This appeal was filed on 10 January 2018. A perusal of the record indicates that there were ad-interim orders passed by this court. These appeals had accordingly remained pending.

2. Considering the nature of the dispute, on the earlier occasion it was thought appropriate that the parties should approach an arbitral tribunal for adjudication of the disputes which have arisen between the parties. This would also be in consonance with the mandates of Section 9 Sub-section (3) of the Act.

3. Today learned counsel for the parties on instructions of their clients are agreeable that the disputes between the parties be referred for adjudication by appointing an arbitral tribunal. The parties are also agreeable that the applicant be permitted to file an application under Section 17 for such appropriate interim reliefs. The parties accordingly state that an arbitral tribunal be appointed by the Court.

4. In the above circumstances, the following order:

ORDER

- (i). Shri. Pramod D. Ambekar, Former District and Sessions Judge is appointed as a sole arbitrator to adjudicate the disputes between the parties as arisen under the agreement dated 19 May 2005 and the supplementary agreement dated 30 January 2006. The applicants are liberty to file Section 17 Application praying for such interim measures as permissible in law and which may be thought appropriate by the applicants;
- (ii). The learned prospective Sole Arbitrator, fifteen days before entering the arbitration reference, shall forward a statement of disclosure as per the requirement of Section 11(8) read with Section 12(1) of the Arbitration and Conciliation Act, 1996, to the Prothonotary & Senior Master of this Court, to be placed on record of this petition with a copy to be forwarded to both the parties;
- (iii). A statement of claim also be filed along with the section 17 application. Let both these proceedings be filed within six weeks from today.
- (iv). The learned sole arbitrator shall decide the Section 17 application on its own merits and without being influenced by the impugned order passed by the District Judge;
- (v). The fees payable to the arbitral tribunal shall be governed in accordance with the fees prescribed under the Bombay High Court (Fees Payable to Arbitrators) Rules, 2018;
- (vi). At the first instance, the parties are directed to appear before the learned sole arbitrator within 15 days from today on a day which as may be fixed by the learned Arbitrator.
- (vii). The learned sole arbitrator shall make endeavour to adjudicate the

Section 17 application as expeditiously as possible and in any event within a period of six weeks from the filing of the said application and shall endeavour to conclude the arbitral proceedings within the time limit as specified under Section 29A of the Act;

- (viii). All contentions of the parties are expressly kept open;
- (ix). Appeals are accordingly disposed of in the above terms.
- (x). The Civil Application would not survive.
- (xi). Office to forward a copy of this order to the learned Arbitrator on the following address:

Office : Flat No.5, 2nd Floor,
Malwe bhavan, Old Tophkhana Lane,
Shivaji Nagar, Pune – 411005.
Mobile : 9029082532, 9167740332, 8422997401.
Email : pdambekar1958@gmail.com

Resident : Plot No.14 Bijali Nagar,
Behind Tapadia Innovation School New Osmanpura,
Near Pride Residency, Aurangabad – 431005.

(G.S. KULKARNI, J.)