

Vidya Amin

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

COMMERCIAL ARBITRATION APPLICATION (L) NO. 168 OF 2019

MSKA & Associates & Anr.	... Applicants
V/s.	
Neelesh Khandelwal & Ors.	... Respondents

**WITH
ARBITRATION PETITION (L) NO. 9176 OF 2019**

Neelesh C. Khandelwal & Ors.	... Petitioners
V/s.	
MSKA & Associates & Ors.	... Respondents

Mr. Soura Subha Ghosh a/w. Arjun Savant i/b. Hariani & Co.,
for the Applicants in CARAPL/168/2019 and for respondents in
ARPL/9176/2019.
Mr. Vijay Upadhyay a/w. Asha Kanzariya for the respondents in
CARAPL/168/2019 and for petitioners in ARPL/9176/2019.

CORAM : G.S.KULKARNI, J.
DATE : 26th June, 2019

P.C.:

Heard learned counsel for the parties. These are cross applications filed under section 11 of the Arbitration and Conciliation Act, 1996 (for short, "the Act") whereby both the parties are before the court praying for appointment of an arbitrator to adjudicate the disputes, which are stated to have arisen between the parties under the Memorandum of

Understanding dated 2nd November, 2016. The Arbitration Agreement between the parties is contained in Clause 29 of MOU. There is no dispute on the existence of the Arbitration agreement. As the parties are desirous for referring the disputes for arbitration, these Applications will have to be allowed.

2. The Application and Petition are accordingly disposed of in the following terms:

ORDER

- (i) Mr. Justice P.D. Kode, Former judge of this Court is appointed as an arbitrator to adjudicate the disputes between the parties which have arisen under the Memorandum of Understanding dated 2nd November, 2016.
- (ii) The learned prospective sole arbitrator, ten 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 application with a copy to be forwarded to both the parties;

- (iii) The fees payable to the arbitral tribunal shall be the fees as prescribed under the Bombay High Court (Fees Payable to Arbitrators) Rules, 2018.
- (iv) At the first instance, the parties shall appear before the prospective arbitrator within 10 days from today on a date which may be mutually fixed by the prospective sole arbitrator;
- (v) All contentions of the parties are expressly kept open;
- (vi) The application and petition are disposed of in the above terms. No costs.
- (vii) Office to forward a copy of this order to the learned Arbitrator on the following address:

204, 2nd floor, Vardhaman Chambers,
Cawasjee Patel Street, Lane adjacent
to Dwarka Hotel, Fort, Mumbai - 400 001.
Tel.: 022-24039994
(M) : 9969101100

(G.S.KULKARNI, J.)