

Vidya Amin

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

ARBITRATION PETITION (ST.) NO. 9336 OF 2019

Vitthal Shankar Lonkar & Anr.

... Petitioners

V/s.

M/s. Panchavati Developers & Ors.

... Respondents

Mr. Nilesh Mohan Wable for the petitioners.

Mr. Sanjiv Sawant i/b. Abhishek Deshmukh for respondent nos. 1 to 4.

Mr. S.V. Prayag for respondent nos. 5 and 6.

CORAM : G.S.KULKARNI, J.

DATE : 17th July, 2019

P.C.:

Heard learned counsel for the petitioners and learned counsel for the respondent.

2. This is a Petition filed under section 11 of the Arbitration and Conciliation Act, 1996 (for short, “the Act”) whereby the petitioners have prayed for appointment of an arbitral tribunal to adjudicate the disputes and differences between the parties which are stated to have arisen under the development agreement dated 13th April, 2011 and the supplementary agreement dated 7th December, 2013. The existence of arbitration agreement as contained in Clause 13 of the Supplementary Agreement is not in dispute.

3. It is also an admitted position that the parties were before the arbitral tribunal, namely, sole arbitration of Mr. Rajendra Khire. However, as there was an objection to the appointment of the said sole arbitrator, by a communication dated 2nd February, 2019 of the sole arbitrator, the parties were informed that the arbitral proceedings have been terminated, as the learned arbitrator withdrew from the arbitral proceedings. It is on this background that the parties are before the court making a prayer for appointment of arbitral tribunal.

4. After this Petition was heard for sometime and considering the fact that the parties were before the arbitral tribunal but the sole arbitrator has withdrawn from the arbitration, the disputes and differences between the parties are required to be referred for adjudication by appointing an arbitral tribunal.

5. In the above circumstances, the Petition is required to be allowed. Hence, the following order:

ORDER

- (i) Mr. Pramod Dattatraya Ambekar, Retired District Judge, is appointed as an arbitrator to adjudicate the disputes and differences between the parties under the development

agreement dated 13th April, 2011 and the supplementary agreement dated 7th December, 2013

- (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 Registrar (Judicial-I), 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 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) The learned sole arbitrator, as appointed, shall endeavour to adjudicate the disputes as expeditiously as possible and within the limits as prescribed under section 29A of the Arbitration and Conciliation Act, 1996.
- (vi) All contentions of the parties are expressly kept open;

(vii) It would be open for the respondents to make any counter claim if they so desire.

(viii) The petition is disposed of in the above terms. No costs.

(ix) Office to forward a copy of this order to the learned Arbitrator on the following address:

Shri Pramod Dattatraya Ambekar,
Retired District Judge,
Magapolis SPARKLET Flat No. A/7-1403,
Phase-3, Rajiv Gandhi Infotech Park,
Hinjawadi, Pune – 411 057.
(M) – 9029082532, 9082520036

(G.S.KULKARNI, J.)