

Vidya Amin

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

ARBITRATION PETITION (St) NO. 18728 OF 2019

Pratibha Industries Ltd.

... Petitioner

V/s.

Navi Mumbai Municipal Corporation

... Respondent

Mr. Ajay Basutkar, Aniket Ransubhe, Suvarna Ambre for the petitioner.
Mr. Sandeep V. Mane for the respondent.

CORAM : G.S.KULKARNI, J.

DATE : 11th July, 2019

P.C.:

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

2. This is a Petition filed under section 11 of Arbitration and Conciliation Act, 1996 (for short “the Act”) whereby the petitioner prays for appointment of an arbitral tribunal to adjudicate the disputes which are stated to have arisen between the parties under the Agreement dated 22nd February, 2010 entered with the respondent-Navi Mumbai Municipal Corporation. There is no dispute with regard to the arbitration agreement between the parties which is contained in clause 114 of the general conditions of contract.

3. After this Petition was heard for sometime, learned counsel for

the respondent would fairly submit that his clients would not have any objection for the disputes being referred for adjudication by appointing an arbitral tribunal, however, keeping all the contentions of the respondent open including on the issue of limitation. Learned counsel for the parties agree that the venue of arbitration proceedings shall be at Mumbai.

4. In view of consensus between the parties and as there is no dispute in regard to an arbitration agreement between the parties as also in regard to the invocation of the arbitration agreement, the Petition would be required to be allowed. Hence, following order:

ORDER

- (i) Smt. Justice Nishita Mhatre, Former Judge of this Court and Former Acting Chief Justice of Calcutta High Court is appointed as a prospective sole arbitrator to adjudicate the disputes which have arisen between the parties under the Agreement dated 22nd February, 2010 entered with the respondent.
- (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) All contentions of the parties are expressly kept open;

(vi) The petition is 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:

(i) 4, "Matrusmruti", 13th Road,
Khar (West), Mumbai – 400 052.

(ii) Unit No. 7, ground floor,
Bandukwala Bldg.,
British Hotel Lane,
Off. Bombay Samachar Marg,
Fort, Mumbai – 400 001.
(M) : 9821165948, 9830552311
E-mail : nishitamhatre@gmail.com

(G.S.KULKARNI, J.)