

Vidya Amin

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

ARBITRATION PETITION NO. 129 OF 2018

M/s. Shubh Corporation	...	Petitioner
V/s.		
M/s. Darshan Developers & Anr.	...	Respondents

Mr. Hassnain Kazi Sayyed a/w. Shraddha Vahval i/b. Arshad Nehal for the petitioner.

Mrs. Leena Shah i/b. Shah & Furia Associates for respondent no. 1.

**CORAM : G.S.KULKARNI, J.
DATE : 11th September, 2019**

PC.:

Heard learned counsel for the petitioner and learned counsel for respondent no. 1.

2. This is a Petition filed under section 11 of the Arbitration and Conciliation Act, 1996 (for short, “the Act”) whereby the petitioner has prayed for appointment of an arbitral tribunal for adjudication of the disputes and differences, which are stated to have arisen between the parties under the Agreement of Joint Venture/Development Agreement dated 19th April, 2012. The Arbitration Agreement between the parties is contained in Clause 26 of the said agreement.

3. Learned counsel for the respondent would also not dispute the arbitration agreement between the parties.

4. Learned Counsel for the petitioner has referred to the notices dated 8 June 2018 and 26 June 2018 addressed by the petitioner to the respondent making a claim of the said amount as also invoking the arbitration agreement. As the respondent did not agree to the request of the petitioner for appointing an arbitral tribunal, the present petition is filed.

5. Learned counsel for the respondent, on instructions, would submit that her client would also have a counter claim against the petitioner. On instructions she submits that her client would not have any objection for appointment of arbitral tribunal to adjudicate the dispute between the parties.

6. In the above circumstances and as the parties are agreeable for appointment of arbitral tribunal, this Petition is required to be allowed. Hence, the following order:

ORDER

- (i) Shri Justice D.G. Karnik, Retired Judge of this Court is appointed as a sole arbitrator to adjudicate the disputes between the parties which have arisen under the Agreement of Joint Venture/Development Agreement dated 19th April, 2012
- (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 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 15 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) Flat No. B-4, Lakeview Apartments,
1127, Shivajinagar, Model Colony,
Near Hotel Ambassador, Pune – 411 016
- (ii) 'Shriram', 1102/B-4, Shivajinagar,
Near Model Colony, Pune – 411 016.
Email : dgkarniklaw@gmail.com
(M) : 9324386697/8275066575

(G.S.KULKARNI, J.)