

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

Arbitration Petition (st) No.28008 OF 2019

Ambika Structures And Developers LLP ...Petitioner

Versus

Eisha Vastu Construction And Ors. ...Respondents

Mr.Karan Bhosale with Varun Satiya, Ms.Pratyusha Pamchangani i/b.
Crawford Bayley & Co., for the Petitioner.

Mr.Prasad G.Keluskar i/b. Pavan Patil, for Respondent no.3.

Mr.Vijay Upadhyahy, for Respondent no.5.

CORAM : G.S. KULKARNI, J.**DATE : 18th October, 2019****P.C.:**

1. Heard learned Counsel for the petitioner and learned Counsel for respondent nos.3 and 5. All the other respondents are served and the affidavit of service is also placed on record stating that the respondents are already served in pursuance of the notices issued by this Court on 2 May 2019.

2. This is a petition filed under Section 11 and 14 of the Arbitration and Conciliation Act,1996 (for short 'the Act') whereby the petitioner is praying for appointment of a substitute arbitrator to arbitrate the disputes and differences between the parties which have arisen under the Article of Agreement dated 16 April 2008.

3. After this petition was heard for some time, learned Counsel for respondent nos.3 and 5 would not have any objection for disputes be referred by appointing a sole arbitrator. The other respondents are served, however, despite of service they are not appearing. The averments in the petitioner are accordingly required to be taken to be uncontroverted in regard to those respondents. In view of the fair approach on behalf of respondent nos.3 and 5, the petition is required to be allowed. Hence, the following order:-

ORDER

(i) Smt.Justice R. P. Sondurbaldota, former Judge of this Court, is appointed as a substitute Arbitrator to arbitrate the disputes and differences the parties under the Article of Agreement dated 16 April 2008.

(ii) The learned 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 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 governed in accordance with the provisions of Bombay High Court (Fees Payable to Arbitrators) Rules, 2018;

- (iv) At the first instance, the parties shall appear before the learned arbitrator within 15 days from today on a date which may be mutually fixed by the prospective sole arbitrator;
- (v) The petitioner shall file statement of claim within a period of one month from today. Respondents to file their respective statement of defence.
- (vi) The Arbitral Tribunal shall make an endeavour to adjudicate the disputes and pass an award within the time period prescribed under Section 29A of the Act.
- (vii) All contentions of the parties are expressly kept open;
- (viii) The application 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:-

“Survey No.99/1B,
Ambegaon (Kh.)
Tal. Haveli, Dist.Pune-411046.
Mobile no.9819821533

[G.S. KULKARNI, J.]

corrected as per the speaking to minutes of the order dated 09.12.2019.