

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

**ARBITRATION APPEAL NO. 27 OF 2017
WITH
CIVIL APPLICATION NO. 63 OF 2016
IN
ARBITRATION APPEAL NO. 27 OF 2017**

Sunil Ramsevak Pandey & Ors.	...	Appellants
V/s.		
Rohidas Hiru Pawshe & Ors.	...	Respondents

Mr. B. K. Bali a/w. Ms. Anju Singh for the Appellant.
Mr. S. V. Pitre for the Respondent no.1 to 9.

CORAM : G. S. KULKARNI, J.

DATE : 16th October, 2019.

PC.:-

1] This is an appeal filed under section 37 of the Arbitration and Conciliation Act, 1996 (for short 'the Act'), whereby the appellant challenges an order dated 20 September 2016 passed by the learned 4th Jt. Civil Judge Senior Division, Kalyan. By the impugned order, the learned Trial Judge has rejected the appellant's application filed under section 8 of the Act objecting to the suit on the ground that there exists arbitration agreement between the parties.

3] After this appeal was heard for some time. Learned counsel for the parties are agreeable that the impugned order, by consent, be set aside, as the parties are now agreeable for the disputes and differences to be

referred for adjudication by appointing an arbitral tribunal.

4] The parties agree that an arbitral tribunal be appointed by the Court. In view of the above consensus the appeal is required to be disposed of in terms of the following order :

ORDER

1. By consent of the parties impugned order dated 20 September 2019 passed by the 4th Jt. Civil Judge Senior Division, Kalyan is set aside.

2. Shri. R. S. Apte, Senior Advocate of this Court, is appointed as a prospective sole Arbitrator to arbitrate the disputes and differences between the parties under the Agreement for Sale and Development dated 8 October 2010. The parties are agreed to have venue of the arbitration at Thane.

3. The learned prospective sole arbitrator, 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;

4. The fees payable to the arbitral tribunal shall be governed in accordance with the fees prescribed under the Bombay High Court (Fees Payable to Arbitrators) Rules, 2018;

5. At the first instance, the parties shall appear before the

prospective arbitrator within 20 days from today on a date which may be mutually fixed by the prospective sole arbitrator;

6. The plaint in Special Civil Suit No. 239 of 2014 shall form the statement of claim of respondent nos. 1 to 10/claimants.

7. The appellant shall file the statement of defence within a one month from the statement of claim being presented before the sole Arbitrator.

8. In view of the above order the Special Civil Suit No. 239 of 2014 stands disposed as the disputes being referred to Arbitration. Refund of Court fees as per rules to the plaintiffs.

9. All contentions of the parties are expressly kept open.

10. Appeal is accordingly disposed of in the above terms. No costs.

11. Civil Application does not survive. It is accordingly disposed of.

12. Office to forward a copy of this order to the learned Arbitrator on the following address.

Address:

4th Floor, Kamer Building,
Opposite Vardhman Chamber,
Veer Nirman Road, Fort,
Mumbai-400001.
Mob. No. 9869005795

(G.S.Kulkarni, J.)