

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
ARBITRATION PETITION NO. 50 OF 2018

Deepak Pandurang Mejari ... Applicant

Versus

M/s. Gurukripa Enterprises and Ors. ... Respondents

Mr. Mayuresh D. Modgi, for Petitioner.
None for the Respondents.

CORAM : S.J. KATHAWALLA, J.
DATED : 18th JANUARY, 2019

P.C.:

1. The Applicant has filed the above Arbitration Petition against the Respondents under Section 11 of the Arbitration and Conciliation Act, 1996, as amended by Arbitration and Conciliation (Amendment) Act, 2015 (the Act) for appointment of a sole Arbitrator to resolve the disputes that have arisen between the parties under the Development Agreement dated 28th October, 2010.
2. None appear for the Respondents though served.
3. Clause 26 of the said Agreement pertains to arbitration and records “that the parties have agreed that if any disputes arises between the parties before the development work is completed, the same shall be referred to arbitration”.
4. Since disputes arose between the parties, the Petitioner invoked the arbitration clause by his Advocate's Letter dated 12th July, 2016. In response thereto, the learned Advocate for the Respondents by his letter dated 29th July, 2016 informed the

Advocate for the Petitioner that he shall reply to the said invocation letter after his clients returned from abroad within 20-25 days. The Respondents thereafter, failed and neglected to give any response to the Petitioner. In view thereof, the Petitioner was constrained to file the above Arbitration Petition on 17th November, 2017.

5. Though several attempts were made to serve the above Petition on the Respondents at their last known addresses, the Petitioner was not successful in doing so. In view thereof, the Petitioner was allowed to serve the above Petition on the Respondents through substituted service and an Affidavit to that effect is on record. Despite the same, the Respondents have failed and neglected to remain present in Court or to file their reply.

6. It is therefore clear that there exists a valid arbitration Agreement between the parties. The Respondents have failed to appoint an Arbitrator to resolve their disputes. Hence, the following order :-

(i) Ms. Gauri Godse, Advocate is appointed as the sole Arbitrator to decide the disputes between the parties arising out of the Development Agreement dated 20th October, 2010.

(ii) The learned Arbitrator shall file her disclosure under Section 11 (8) read with Section 12 (1) of the Arbitration and Conciliation Act, 1996 as amended by the Arbitration and Conciliation (Amendment) Act, 2015 (3 of 2016) within a period of one week from today.

(iii) The parties and/or their Advocates shall appear before the learned

Arbitrator in her chambers on the date and time mutually fixed by them with the learned Arbitrator and obtain necessary directions.

(iv) The cost of arbitration shall initially be borne by the parties equally.

(v) The venue of Arbitration shall be at Thane.

(vi) In view of this order, the above Arbitration Petition is disposed of.

(vii) The Advocate for the Petitioner shall forward a copy of this order to Ms. Gauri Godse, Advocate. A copy of this order shall also be forwarded to the Respondents by Speed Post/Registered Post A.D at their last known addresses.

(S.J.KATHAWALLA, J.)