

psv

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
ORDINARY ORIGINAL CIVIL JURISDICTION**

**ARBITRATION APPLICATION (L.) NO.62 OF 2019**

|                                     |               |
|-------------------------------------|---------------|
| Ashok Mohanraj Chhajed              | ..Applicant   |
| Vs.                                 |               |
| M/s.Shanklesha Constructions & Ors. | ..Respondents |

-----

Mr.A.M. Saraogi for Applicant.  
Mr. Ativ Patel i/b. AVP Partners for Respondent Nos.1 to 5.

-----

**CORAM : G.S. KULKARNI, J.**

**DATE : 19<sup>th</sup> MARCH, 2019**

**P.C.:**

Heard Mr.Saraogi, learned Counsel for the applicant and Mr.Patel, learned Counsel for the respondents.

2. This is an application filed under Section 11 of the Arbitration and Conciliation Act, 1996 (for short, "the ACA") whereby the applicant has prayed for appointment of a sole arbitrator to adjudicate the disputes and differences which are stated to have arisen between the parties under the Deed of Partnership dated 25 August 2014. There is no dispute on the arbitration agreement between the parties. There is also no dispute on invocation of the arbitration agreement which is stated to be applicant's Advocate's letter dated 14 January 2019. As the respondents did not concur, the present application has been filed. Rejoinder affidavit is also placed on record by Mr.Saraogi, learned Counsel for the applicant.

3. Learned Counsel for the respondents has placed on record reply affidavit of Mr.Manish Prakash Mutha, respondent No.2. The contention of the respondents is that there is a subsequent agreement which is titled as “Admission-Cum-Partnership Deed” dated 21 July 2017 and which would also according to him be relevant for the purpose of any dispute which may be adjudicated between the parties before the arbitral tribunal.

4. Learned Counsel for the respondent on instructions of his clients is not averse for the disputes to be referred for arbitration by appointing a sole arbitrator.

5. Having heard learned Counsel for the parties and having perused the averments as made in the application, reply affidavit and rejoinder affidavit, in my opinion, as there is consensus between the parties, the disputes be referred for arbitration by appointing a sole arbitrator. The application is accordingly required to be disposed of in view of the consensus between the parties. Hence, the following order:-

### **ORDER**

(i) Justice Roshan Dalvi, Former Judge of this Court, is appointed as a prospective sole Arbitrator to arbitrate the disputes and differences which are stated to have arisen between the parties under the Deed of Partnership dated 25 August 2014 and the Admission-Cum-Partnership Deed dated 21 July 2017;

(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 Prothonotary

& Senior Master of this Court, to be placed on record of this application with a copy to be forwarded to both the parties;

(iii) 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;

(iv) All contentions of the parties on merits of the matter are expressly kept open;

(v) The application is disposed of in the above terms. No costs.

(vi) Office to forward a copy of this order to the learned Arbitrator on the following address:

address: 202, Siddhant Madhusudan Kalelkar Road,  
Bandra (E.), Mumbai – 400 051.

Contact No. 9423993796

6. At this stage, Mr.Saraogi, learned Counsel for the applicant submits that the applicant intends to move an application under Section 17 of the ACA. If such an application is presented before the learned sole arbitrator, the learned sole arbitrator shall consider the same as expeditiously as possible and endeavour be made to decide the said application within 3 months of the application being filed.

**[G.S. KULKARNI, J.]**