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

ARBITRATION APPLICATION (L.) NO.70 OF 2019

Komal M. Panani	..Applicant
Vs.	
Bineeta Associates & Ors.	..Respondents

Ms.Aditi Bhat with Mr.Sahil Gandhi i/b. M/s.Markand Gandhi & Co. for Applicant.

Ms.Priya Rita i/b. Ms.Disha Karambale & Associates for Respondents.

CORAM : G.S. KULKARNI, J.

DATE : 26th FEBRUARY, 2019

P.C.:

Heard learned Counsel for the applicant and learned Counsel for the respondents.

2. This petition is filed under Section 11(6) of the Arbitration and Conciliation Act, 1996 (for short, “the ACA”) whereby the applicant is seeking appointment of an arbitrator for adjudication of the disputes and differences which have arisen between the parties under the Memorandum of Agreed Terms dated 1 November 2018 (for short, “the said memorandum”). Clause 6 of the said memorandum is the arbitration clause which reads thus:-

“6. The Party of the First Part has assured the Party of the Second Part that the proceeds of the sale of the sale flat shall be utilized towards repayment of the Mortgage dues on the

said flat and in any event, the encumbrances on the said flat shall be removed by the Party of the First Part on or before 30th December, 2018.”

3. By a letter dated 5 January 2019 of the applicant's Advocate addressed to the respondents, the respondents were called upon to appoint an arbitrator as agreed between the parties in the said memorandum. However, as no steps were taken by the respondents, though the said letter was replied by the respondents' Advocate by their letter dated 7 January 2019, the present application is filed.

4. After this application was heard for sometime, learned Counsel for the parties on instructions are agreeable that their clients are agreeable to refer the disputes for adjudication of a sole arbitrator. In view of the consensus between the parties, the application is required to be allowed. Hence, the following order:-

ORDER

(i) Mr.Aditya Shiralkar, Advocate of this Court, is appointed as a sole prospective Arbitrator to arbitrate the disputes and differences between the parties under the Memorandum of Agreed Terms dated 1 November 2018;

(ii) The 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 on 19 March, 2019 at a time which may be mutually fixed in consultation with the prospective sole arbitrator;

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

(v) The above 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: 1102, 11th Floor, Ramnimi, 12/C, Bawaji Patel Masjid,
Fort, Mumbai – 400 001.

Contact No. 9920040804.

[G.S. KULKARNI, J.]