

Della Developers Private Limited ...Petitioner
vs.
Noble Organics Private Limited and Another ...Respondents

CORAM : R. G. KETKAR, J.

DATE : JULY 31, 2019

P.C.:

Heard Mr. Pradeep Sancheti, learned Senior Counsel, for the
Petitioner and Mr. Sanjay Singhvi, learned Senior Counsel for the
Respondent at length.

2. By this Petition under Section 34 of the Arbitration and Conciliation Act, 1996 (for short “Act”) the Petitioner challenges the award dated 30th January, 2018 made by the learned Sole Arbitrator Mr. Justice B.N. Srikrishna, (Retired). The matter was heard from time to time and was adjourned so as to enable the parties to resolve the controversy amicably. In pursuance thereof, the learned counsel for the parties have tendered the consent

terms dated 31st July, 2019 duly signed by Hitesh Pandya, Head of the Accounts and their advocate as also by Respondent No. 1 Dinyar Jamshedji, Chairman Managing Director and 2 Shahaveer Dinyar Jamshedji, Director of the Respondents and their advocates.

3. The consent terms along with letter of authority dated 30th July, 2019 and the resolution passed by the Board of Directors authorizing Mr. Dinyar J. Jamshedji, Chairman and Managing Director of the Company to sign and execute undertaking, consent terms, sign affidavit, appoint advocate, sign vakalatnama, apply for certified copies of order and other things are enclosed. The consent terms along with authority letters and resolution of Board of Directors is taken on record and marked X collectively for the identification.

4. Under clause 7 of the consent terms, the Petitioner has agreed to pay Rs. 1 Crore within six months. As per clauses Nos. 2 and 3 Respondents have further agreed that in case the amount is not paid within six months to the Petitioner that the whole of the unpaid amount payable out of Rs. 1 Crore shall forthwith become

due and payable by the Respondents to the Petitioner and the Petitioner shall be entitled to recover the same together with interest at the rate of 12% per annum on the unpaid amount from the date of these consent terms till payment or realization of the amount. In clause 9 it is stated that Respondent Shahaveer Dinyar Jamshedji, Director will file affidavit on or before 11th August, 2019. The undertaking given by Mr. Dinyar J. Jamshedji dated 31st July, 2019 is taken on record and marked "X". The said undertaking is accepted.

5. The Arbitration Petition is disposed of in terms of the consent terms.

6. List the Petition for reporting compliance on 13th August, 2019 when Mr. Shahaveer Dinyar Jamshedji will file undertaking in terms of clause 9 of the consent terms and the Petitioner will file board of resolution authorizing Hitesh Pandya to represent the company.

(R.G. KETKAR, J.)