

Atul

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS COMMERCIAL DIVISION
COMM ARBITRATION APPLICATION NO. 456 OF 2019
AND
COMM ARBITRATION PETITION NO. 935 OF 2019**

SN Damani Developers LLP	...Petitioner
<i>Versus</i>	
Kashyap K Mehta & Ors	...Respondents

Mr Ashish Kamat, *with Vaibhav Singh, i/b Shardul Amarchand Mangaldas & Co., for the Petitioner/Applicant.*
Mr Chirag Mody, *with Nausher Kohli, Munaf Virjee & Rushabh Parekh, i/b ABH Law LLP, for Respondents Nos. 1 to 3.*
Mr Siddhesh Bhole, *Krupashree Sawant, i/b Siddhesh Bhole, for Respondent No. 4.*

CORAM: G.S. PATEL, J.
DATED: 10th December 2019

PC:-

1. By consent, the parties agree to refer all the disputes and differences between the parties to the sole arbitration of Mr Karl Shroff, learned Advocate of this Court.

(a) **Appointment of Arbitrator:** By consent, Mr Karl Shroff, is hereby nominated to act as a Sole Arbitrator

to decide the disputes and differences between the parties *arising out of the Investment Agreement dated 28th October 2013.*

(b) Communication to Arbitrator of this order:

(i) A copy of this order will be communicated to the learned Sole Arbitrator by the Advocates for the Applicant within one week from today of the order being uploaded.

(ii) In addition, within one week of this order being uploaded, the Registry will forward an ordinary copy of this order to the learned Sole Arbitrator at the following postal and email addresses:

Arbitrator/s Mr Karl Shroff, Advocate

Address Frenville, Jussawala Wadi, Juhu,
Mumbai 400 049.

Mobile 98200 69915

Email karlshroff@hotmail.com

(c) Disclosure: The learned Sole Arbitrator is requested to forward his statement of disclosure under Section 11(8) read with Section 12(1) of the Arbitration Act to the Prothonotary and Senior Master of this Court, referencing this arbitration application, as soon as possible, and in any case sufficiently in advance of his entering upon the reference to his arbitration. That statement will be retained by the Prothonotary &

Senior Master on the file of this application. Copies will be given to both sides.

- (d) **Appearance before the Arbitrator:** Parties will appear before the learned Sole Arbitrator on such date and at such place as he nominates to obtain appropriate directions in regard to fixing a schedule for completing pleadings, etc.
- (e) **Contact/communication information of the parties:** Contact and communication particulars are to be provided by both sides to the learned Sole Arbitrator within one week of this order being uploaded. The information is to include a valid and functional email address.
- (f) **Section 16 application:** The parties are at liberty to raise all questions of jurisdiction, competence and arbitrability within the meaning of section 16 of the Arbitration Act. All contentions are left open.
- (g) **Interim Application/s:**
 - (i) The present Petition under Section 9 of the Arbitration Act will be treated, heard, and disposed of as an application under Section 17 of the Act. All affidavits filed in the Section 9 petition will be treated as affidavits filed in the Section 17 application. Liberty to apply to the learned Sole Arbitrator for leave to file further affidavits. The additional

affidavits presented today are to be filed before the learned Sole Arbitrator in the Section 17 application.

- (ii) Liberty to both sides parties to make an interim application or interim applications including (but not limited to) interim applications under Section 17 of the Arbitration & Conciliation Act, 1996 before the learned Sole Arbitrator.
- (iii) The learned Sole Arbitrator is requested to dispose of all interim applications at the earliest.
- (h) **Fees:** The arbitral tribunal's fees shall be governed by the Bombay High Court (Fee Payable to Arbitrators) Rules, 2018.
- (i) **Sharing of costs and fees:** Parties agree that all arbitral costs and the fees of the arbitrator will be borne by the two sides in equal shares in the first instance.
- (j) **Consent to an extension if thought necessary.** Parties immediately consent to a further extension of up to six months to complete the arbitration should the learned Sole Arbitrator find it necessary.
- (k) **Venue and seat of arbitration:** Parties agree that the venue and seat of the arbitration will be in Mumbai.

2. The Application and Petition are disposed of in these terms.
No costs.

(G. S. PATEL, J)

Note: This order is modified as per order dated 18th December 2019 passed on a praecipe. The corrections are shown in bold and italics.