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

**ARBITRATION PETITION NO.758 OF 2018
IN
SUIT NO.1549 OF 2003**

Dominic Trinidad	..Petitioner
Vs.	
Francis Lopes	..Respondent

Mr.Johnson John for Petitioner.
Ms.Armaity Khushrushahi with Ms.Nerissa Almeida for Respondent.

CORAM : G.S. KULKARNI, J.

DATE : 13th MARCH, 2019

P.C.:

Heard learned Counsel for the petitioner and learned Counsel for the respondent.

2. This is a petition filed under Section 14 of the Arbitration and Conciliation Act, 1996 (for short, “the ACA”) whereby the petitioner has prayed to substitute the arbitrator as the earlier arbitrator so appointed by this Court is expired in September 2016. In the proceedings of Suit No.1549 of 2003, on 23 September 2005 this Court passed the following order:-

“1. Learned counsel appearing for the defendant gives an undertaking in terms of prayer clause (b) of the motion. Both the parties have entered into an arbitration agreement to refer the differences and disputes to the sole arbitration of

Mr. S.R. Shah. In view thereof, the sole arbitration entered into the present suit does not survive. Suit as well as counter claim disposed off accordingly. Refund of court fees as per rules.”

3. As Mr.S.R. Shah who was acting as the arbitrator has expired in September 2016, it would be appropriate that the prayers as made in the petition by the petitioner are granted. Accordingly, the following order:-

ORDER

- (i) Mr.Anupam Surve, Advocate of this Court, is appointed as a prospective sole Arbitrator to arbitrate the disputes and differences between the parties, subject matter of the present proceeding, in substitution of the arbitral tribunal as appointed earlier.
- (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 petition with a copy to be forwarded to both the parties;
- (iii) The parties are at liberty to collect the proceedings of the arbitration as conducted by the earlier arbitrator and hand over the same to the newly appointed arbitrator;
- (iv) Learned prospective sole arbitrator so appointed shall continue the proceeding from the stage as reached by the earlier sole arbitrator;

- (v) At the first instance, the parties shall appear before the prospective arbitrator within one week from today on a date which may be mutually fixed by the prospective sole arbitrator;
- (vi) All contentions of the parties on merits of the matter are expressly kept open;
- (vii) The petition is disposed of in the above terms. No costs.
- (viii) Parties to act on an authenticated copy of this order.
- (ix) Office to forward a copy of this order to the learned Arbitrator on the following address:

address: 401, Savla Chambers, Chamber of Mr.Kevik
Sethalwad, Cawasji Patel Street, Mumbai – 400 001.

[G.S. KULKARNI, J.]