

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

COMM.ARBITRATION APPLICATION NO.365 OF 2018

Three P Consultants Pvt. Ltd .. Applicant/Petitioner
vs
Raju Kapoor .. Respondent

with COMM. ARBITRATION PETITION NO.1258 OF 2018

Three P Consultants Pvt. Ltd .. Petitioner
vs
Raju Kapoor .. Respondent

Dr.Birender Saraf with Mr.Malcolm Siganporia,
Ms.Aziza Khatri,Mr.Prashant Kamble and Mr.Shivam
Bhagwati I/b AAK Legal for Applicant/Petitioner

Coram : G.S.KULKARNI, J
Date : 31st JANUARY, 2019

P.C

Heard learned counsel for the applicant and learned counsel
for the respondent.

2. Commercial arbitration application no.365 of 2018 is filed
under section 11 (6) of the Arbitration and Conciliation Act, 1996 (for
short 'ACA') praying for appointment of an arbitrator to adjudicate
disputes and differences between the parties which are stated to have
arisen under the NDA agreement dated 7.5.2012. Arbitration Petition

No.1258 of 2018 is filed by the applicant/petitioner seeking interim reliefs pending arbitration proceedings.

3. After these proceedings were heard on the earlier occasion, the learned counsel for the parties on instructions submit that the parties are agreeable for reference of the disputes for adjudication by a sole arbitrator. Learned counsel for the parties on instructions, are also agreeable that the proceedings of section 9 petition be converted into proceedings of an application under section 17 of the ACA Act to be adjudicated by the arbitral tribunal.

4. In view of the above consensus between the parties, the present application under section 11 (6) and the petition under section 9 of the ACA, would not warrant any further adjudication. Hence, the following order :

ORDER

(i) Mr.Salil Shah advocate of this Court is appointed as a sole prospective arbitrator to adjudicate the disputes and differences between the parties under the NDA agreement dated 7.5.2012;

(ii) The learned prospective arbitrator 15 days prior to entering

a reference shall make a disclosure as per section 11 (8) read with section 12 (1) of the ACA, and the same be forwarded to the Prothonotary and Senior Master, to be placed on the record of this application, as also furnish the same to the parties.

(iii) By consent of the parties, the proceedings of Commercial Arbitration petition No.1258 of 2018 shall be treated as proceedings under section 17 of the ACA to be adjudicated by the arbitral tribunal. Parties if they so desire shall file such further pleadings, if so necessary.

(iv) All contentions of the parties on merits of the disputes are expressly kept open.

5. The application under section 11 (6) and petition under section 9 of the ACA are accordingly disposed of in terms of above order. No costs.

6. Office to forward a copy of this order to Mr.Salil Shah Advocate.

7. Rejoinder affidavit as presented on behalf of the petitioners is taken on record and shall form part of the proceedings before the learned arbitrator.

(G.S.KULKARNI, J)