

Shephali

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS COMMERCIAL DIVISION
COMM ARBITRATION PETITION NO. 148 OF 2020
WITH
COMM ARBITRATION APPLICATION NO. 41 OF 2020**

Shree Durga Katleshwari Enterprises	...Petitioner/ Applicant
<i>Versus</i>	
Dewan Housing Finance Ltd	...Respondent

**Mr Abhay Khandeparkar, with Prerak A Sharma, for the Petitioner/
Applicant.**

Mr Vivek V Salunke, for the Respondent.

**CORAM: G.S. PATEL, J
(Through Video Conference)**

DATED: 14th December 2020

PC:-

1. Heard through video conferencing.
2. Leave to amend in terms of the draft amendment. Amendment to be carried out both in soft copy and hard copy within two weeks from today. Re-reverification dispensed with.

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Date: 2020.12.15
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3. The Advocate for the Respondent waives service of the amendment since a copy has already been served.

4. Parties are agreed that the disputes and differences between the parties under the Loan Agreement dated 25th February 2014 be referred to the sole arbitration of Mr Surel Shah, learned Advocate of this court. This is acceptable.

5. Mr Khandeparkar agrees that he will press the Section 9 Petition as a Section 17 Application before the learned sole Arbitrator.

TERMS OF APPOINTMENT

(a) **Appointment of Arbitrator:** Mr Surel Shah, learned Advocate of this Court, is hereby nominated to act as a Sole Arbitrator to decide the disputes and differences between the parties under Loan Agreement dated 25th February 2014.

(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 the date this order is uploaded.

(ii) The Advocates for the Applicant will forward an ordinary copy of this order to the learned Sole Arbitrator at the following postal and email addresses:

Arbitrator Mr Surel Shah, Advocate.

<i>Address</i>	Office No.2-3, Ground floor, Doshi Shoppe, Link Road, Opp. Dosti Acres, Wadala (East), Mumbai 400 037.
<i>Mobile</i>	98211 45720
<i>Email</i>	surelshah@yahoo.co.in

- (c) **Disclosure:** The learned Sole Arbitrator is requested to forward, in hard copy or soft copy (or both), the necessary statement of disclosure under Section 11(8) read with Section 12(1) of the Arbitration Act to Advocates for the parties as soon as possible. The Advocates for the Petitioners will arrange to file the original statement in the Registry. If the statement is forwarded in soft copy, a print out of the covering email is also to be filed in the registry.
- (d) **Appearance before the Arbitrator:** Parties will appear before the learned Sole Arbitrator on such date and at such place as the learned Sole Arbitrator 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. The information is to include functional email addresses and mobile numbers.

- (f) **Section 16 application:** The respondent is at liberty to raise all questions of jurisdiction within the meaning of section 16 of the Arbitration Act. All contentions are left open.
- (g) **Interim Application/s:**
 - (i) Liberty to the 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. Any such application will be decided in such manner and within such time as the learned Sole Arbitrator deems fit.
 - (ii) 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.
 - (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.
- (l) **Procedure:** These directions are not in derogation of the powers of the learned Sole Arbitrator to decide and frame all matters of procedure in arbitration.

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

7. This order will be digitally signed by the Private Secretary of this Court. All concerned will act on production of a digitally signed copy of this order.

(G. S. PATEL, J)