

Vinita

IN THE HIGH COURT OF BOMBAY AT GOA.

**APPLICATION FOR APPOINTMENT OF ARBITRATOR NO. 1
OF 2022**

SPARROW ELECTRONICS LTD., REP.
BY ITS MANAGING DIRECTOR,
SANJAY SARDA ...Applicant.
VS
ABS ELECTROPLATERS INDIA PVT.
LTD. ...Respondent.

Mr. S. Korgaonkar, Advocate for the applicant.

Mr. P. Talaulikar, Advocate for the respondent.

CORAM: SANDEEP K. SHINDE, J.
DATE: 6th July, 2022.

P.C.:

1. Heard Mr. S. Korgaonkar, learned Counsel for the applicant and Mr. P. Talaulikar, learned Counsel for the Respondent.
2. This is an application for appointment of arbitrator under Section 11 of the Arbitration and Conciliation Act, 1996, (for short 'Act of 1996').
3. Vide sub-lease agreement dated 18th January 2019, the applicant

had granted sub-lease to respondent of their building with the plot being plot no. SC-1/38 and 39 of Verna Industrial Estate for a period of five years from 19th January 2019. Vide notice dated 11th January 2021, the applicant terminated sub-lease agreement dated 18th January 2019 and called upon the the respondent to vacate and remove himself with all equipments and machineries from the said licensed premises on the expiry of 60 days of the receipt of the notice; pay arrears of rent, mesne profit and interest at the rate of 15% per annum on the arrears of rent due beginning from March, 2021 till its payment.

4. There is no dispute that the applicant and the respondent had entered into sub lease agreement dated 18th January 2019 and disputes have arisen. As a consequence, the applicant vide notice dated 24th March 2021 invoked clause 24 of the sub lease agreement dated 18th January 2019 which reads as under:-

All disputes, difference or disagreement arising out of an in connection with or in relation to this Agreement shall be finally decided by arbitration, to be held in accordance with the provisions of the Arbitration and Conciliation Act, 1996 or any statutory modification or re-enactment thereof for the time being in force. The venue of the arbitration shall be Goa and the language of the arbitration shall be English.

5. Applicant vide said notice, proposed appointment of a sole arbitrator to decide and resolve the dispute between themselves. The notice was not respondent. Therefore, this application is moved under Section 11 of the Act of 1996.

6. That, while exercising jurisdiction under Section 11 of the Act of 1996, what is relevant is the existence of the arbitration of the Agreement and further that the disputes arising from the Agreement, are amenable to arbitration. In this case, all necessary elements to exercise the power under Section 11(6) of the Act, of 1986 are adequately satisfied. The application therefore deserves to be allowed.

7. Needless to state that all contentions of the parties on merits are left open for determination of the arbitral Tribunal in accordance with law and on their on merits.

8. Hence, the following order :

ORDER

- (i) Mr. Chetan Palyekar, Advocate, having office at 3rd Floor, Apana Bazar Building, Fr. Joseph Vaz Road, Vasco-da-Gama, Goa, is appointed as sole Arbitrator to arbitrate the disputes/claim and counter claims, if any, which arise out of

the sub-lease agreement dated 18th January, 2019.

- (ii) The learned Arbitrator is requested to file his disclosure statement under Section 11(8), read with Section 12(1) of the Act of 1996, within three weeks with the Registry of this Court and provide copies to the parties.
- (iii) Parties to appear before the sole Arbitrator on the date fixed by him at his earliest conveyance .
- (iv) The application is allowed and disposed of in the aforesaid terms, without there being any orders for costs.

SANDEEP K. SHINDE,J.

VINITA VIKAS
NAIK

 Digitally signed by VINITA VIKAS
NAIK
Date: 2022.07.07 11:05:53 +05'30'