

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

ARBITRATION PETITION 38 OF 2022

Ms. Kedareshwar Infrastructure & Developers
Pvt. Ltd.

...Petitioner

Versus

R.S. Kamate Infrastructure Developers
Pvt. Ltd.

...Respondent

* * *

- Mr. J. N. Singh, Mr. Jaymala Ostwal and Mr. Saurabh A. Saxena i/by M/s. J.J. Associates, for the Petitioner.
- Mr. Karan S. Thorat, for the Respondent.

* * *

CORAM : MANISH PITALE, J

DATE : 11TH NOVEMBER, 2022.

P. C. :

1. This petition is filed under Section 11 of the Arbitration and Conciliation Act, 1996, for appointment of Arbitrators in terms of the Arbitration Clause.

2. The Respondent had appointed the petitioner as Sub Contractor as per Sub Contract Agreement, which contained Clause 25, pertaining to Arbitration.

3. It appears that disputes arose between the parties in the context of which, by communication dated 16th October, 2021, the petitioner invoked the Arbitration Clause. The response of the Respondent clearly indicated that there was indeed a dispute between the parties.

4. It is in this backdrop that the present petition was filed.

This Court issued notice to the Respondent in the present petition, in response to which, the Respondent appeared through Counsel.

5. The petitioner through its Counsel has proposed the name of Justice Shri. J. N. Patel, Retired Judge of this Court, as its nominee in terms of Clause 25 pertaining to Arbitration. The Respondent has proposed the name of Mr. S. B. Tamsekar, (Retired Secretary) PWD, Government of Maharashtra as its nominee in terms of the Arbitration Clause. The Arbitration Clause specifically provides that upon the two Arbitrators being appointed by the parties, they shall appoint the Presiding Arbitrator. It is submitted on behalf of the parties that if this Court passes appropriate orders in the present petition, the nominee Arbitrators of the parties will appoint the Presiding Arbitrator.

6. In view of the above, in terms of the Arbitration Clause, Justice Shri. J. N. Patel, Retired Judge of this Court is appointed as the Arbitrator nominated by the petitioner and Mr. S. B. Tamsekar, Retired Secretary, PWD, Government of Maharashtra, is appointed as the Arbitrator nominated by the Respondent.

7. The learned Arbitrators so appointed are requested to communicate their consent and Disclosure Statement in terms of the Section 11(8) r/w Section 12(1) of the aforesaid Act, within four

weeks to the Registrar (Judicial) of this Court.

8. The parties shall communicate the order passed today to the learned Arbitrators at the earliest. The learned Arbitrators shall proceed in the matter in terms of the aforesaid Arbitration Clause. The Presiding Arbitrator appointed in consequence thereof would also communicate his consent and Disclosure Statement to this Court within four weeks of his appointment.

7. The petition stands disposed of.

(MANISH PITALE, J.)