

Sharayu Khot.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

ARBITRATION APPEAL NO. 6 OF 2022

M/s. Eisha Atharva Constructions & Ors. ...Appellants

Versus

Mrs. Priyanka Sareen @ Priyanka Roy
Kapur ...Respondent

WITH

INTERIM APPLICATION NO. 1099 OF 2022

IN

ARBITRATION APPEAL NO. 6 OF 2022

Mr. Tejas Deshmukh for the Appellant.

Mr. Radhikesh V. Uttarwar, Mr. Shrikant Patil, Mr. Arjun Pawar, Ms. Pooja R. Thakur for the Respondent.

CORAM : R.I. CHAGLA J

DATE : 28 April 2022

ORDER :

1. Heard the learned Counsel for the parties.
2. Arbitration Appeal No. 6 of 2022 has been filed to challenge the Judgment and order dated 29th January 2022 passed by the District Judge-2, Pune in Civil Misc.Application No. 351 of 2021 filed under Section 9 of the Arbitration and Conciliation Act, 1996 and in which Application, the District

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Court was pleased to grant interim injunction against the Appellants and the construction has been stayed.

3. This matter has come up on previous dates, when this Court had indicated that the parties endeavour to settle the matter.

4. Learned Counsel for the parties have agreed to refer the dispute to arbitration and for appointment of an arbitrator by this Court. The name of the retired Judge of this Court (Dr.) Smt. Shalini Phansalkar-Joshi is agreeable to the parties.

5. Learned Counsel appearing for the Appellant has on instructions stated that pending the hearing and disposal of Section 17 Application which is to be preferred by the Appellant before the appointed Arbitrator, the disputed area of 9000 sq.ft. shall be kept aside for the Respondent. The dispute as to the actual area of the subject premises shall be determined by the appointed Arbitrator. The statement is accepted.

6. Considering the agreement between the parties, the following order is passed:-

- (i) (Dr.) Smt. Shalini Phansalkar-Joshi (Retired High Court Judge) is appointed as a Sole Arbitrator to decide the disputes between the Appellants and the Respondent.
- (ii) The venue of arbitration shall be in Pune.
- (iii) Office to inform the Sole Arbitrator regarding her appointment.
- (iv) The Sole Arbitrator is requested to file the Disclosure Affidavit of Arbitration under Section 11(8)(i) of the Arbitration and Conciliation Act, 1996 within a period of three weeks from the date of receipt of the notice issued by the Registrar Judicial-I and provide copies to the parties.
- (v) The Arbitrator appointed is requested to consider the Section 17 Application being preferred by the Respondent herein expeditiously.

- (vi) Parties to appear before the Sole Arbitrator on the date fixed.
- (vii) Fees of the Sole Arbitrator will be payable in accordance with the Bombay High Court (O.S.) Rules, 2018.
- (viii) The impugned order dated 29th January 2022 shall be substituted by this order.
- (ix) Arbitration Appeal No. 6 of 2022 is accordingly, disposed of in the above terms.
- (x) In view of disposal of the Arbitration Appeal, Interim Application No. 1099 of 2022 is also disposed of.
- (xi) No costs.

[R.I. CHAGLA J.]