

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

ARBITRATION PETITION NO. 58 OF 2022

Mr.Rahul Bhagwanrao Kadam & Anr. ..Petitioners
vs.
Mr.Anand Pandit & Anr. ..Respondents

Mr.Rohan P Surve, for the Petitioners.

None for the Respondents.

CORAM : G.S. KULKARNI, J.
DATE : AUGUST 10, 2022.

P.C.:

1. This is a petition filed under Section 14 and 15 of the Arbitration and Conciliation Act, 1996 (for short “**the Act**”) whereby the petitioners seek appointment of a substitute sole arbitrator for adjudication of the disputes and differences which have arisen between the parties.

2. This Court by an order dated 19 March 2022 passed on Arbitration Petition No.163 of 2019 had appointed Mr.Justice Shrihari P. Davare, former Judge of this Court as a substitute arbitrator, as the sole arbitrator earlier appointed namely Mr.Sharadchandra Shriniwas Banhatti expired on 24 February 2018. It is averred by the petitioner that the arbitration proceedings have substantially progressed and are at the stage of the evidence of the parties being recorded by the arbitral tribunal. At this juncture, learned sole Arbitrator appointed by this Court has informed the Register General of this Court by a letter dated 1 April 2020 that he has been appointed as the State Police Complaints Authority (SPCA), Mumbai, and has assumed the charge of the said post. For such reason, he has expressed his inability to function as sole

arbitrator to adjudicate the disputes in arbitration. In these circumstances, the petitioner was required to file the present proceedings.

3. The respondents are served, a vakalatnama of Mr.Nitin B.Keskar, Advocate has been filed on record on 14 September 2021, however, no reply affidavit has been filed and perhaps as there cannot be any opposition to prayers in the present proceedings.

4. In the above circumstances, in continuation of the order dated 19 March 2020, a substitute arbitrator would be required to be appointed, to continue the arbitral proceedings for adjudicating the disputes and differences which have arisen between the parties. The petition is accordingly allowed by the following order:-

ORDER

- (i) Smt.Justice Rekha Sondurbaldota, former Judge of this Court is appointed as a sole Arbitrator to adjudicate the disputes and differences which have between the parties;
- (ii) The learned sole arbitrator, before entering the arbitration reference, shall forward a statement of disclosure as per the requirement of Section 11(8) read with Section 12(1) of the Arbitration and Conciliation Act,1996, to the Registrar (Judicial) of this Court, to be placed on record of this application with a copy to be forwarded to both the parties;
- (iii) The parties shall appear before the learned substitute arbitrator within 15 days from today on a date which may be mutually fixed by the learned substitute arbitrator;
- (iv) The petitioner shall place the entire record and proceedings before

the learned substitute arbitrator as may be directed.

(v) The learned substitute arbitrator shall continue the arbitral proceedings from the stage the proceedings have already reached and on the basis of material as placed on record before the previously appointed arbitral tribunal.

(vi) The fees payable to the arbitral tribunal shall be as prescribed under the Bombay High Court (Fees Payable to Arbitrators) Rules, 2018 and shall be borne by the parties in equal proportion.

(vii) Except for the change in the name of the learned Arbitrator, rest of the order dated 19 March 2021 shall remain undisturbed.

(vii) All contentions of the parties are expressly kept open.

(viii) The petition is disposed of in the above terms. No costs.

(ix) Office to forward a copy of this order to the learned Arbitrator on the following address:

Survey No.99/1B, Ambegaon (Kh.)

Taluka Haveli, Dist. Pune 411046.

Mob.No. 9819821533

[G.S. KULKARNI, J.]