

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

INTERIM APPLICATION NO. 3795 OF 2021

IN

ARBITRATION PETITION NO. 49 OF 2013

Landmark Inn Private Limited through
its Director Mr. Salim Hingora

...Applicant

IN THE MATTER BETWEEN

Landmark Inn Private Limited through
its Director Mr. Salim Hingora

...Petitioner

V/s.

The Chief Officer & Anr.

...Respondents

Ms. Manjiri Parasnis, for the Applicant.

Mr. N. B. Patil, AGP for the Respondent / State.

Mr. Ranjit V. Sangle a/w. Mr. S. V. Patil and Mr. C. R. Kulkarni,
for the Respondent No.1.

CORAM : C.V. BHADANG, J.

DATE : 30 SEPTEMBER 2022

P.C.

. This is an application under Section 11 of the Arbitration and Conciliation Act, 1996, for appointment of a substitute Arbitrator.

2. Heard learned counsel for the parties.

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3. There is a lease agreement executed between the parties on 16 September 2010. The lease agreement contains the arbitration clause.

4. As disputes and differences had arisen between the parties arising out of the lease agreement, the Petitioner had invoked the arbitration clause and had filed Arbitration Petition No.49/2013. This Court by an order dated 30 April 2014 had appointed Mr. Justice M. S. Rane, former Judge of this Court, as a sole Arbitrator to adjudicate upon the disputes and differences between the parties. The learned Arbitrator had entered the reference. However, the learned Arbitrator by a letter dated 15 March 2021 had sought withdrawal from the proceedings under Section 15(1) of the said Act, inter alia on the ground of advanced age and health reasons. It is in these circumstances, the present application is filed for appointment of the substitute Arbitrator.

5. In such circumstances, the following order is passed.

ORDER

- (i) Justice J. N. Patel, Former Chief Justice of Kolkata High Court is appointed as a Sole Arbitrator to adjudicate the dispute between the parties.
- (ii) The learned Sole Arbitrator, before entering the arbitration reference, shall forward a statement of disclosure as per requirement of Section 11(8)

read with Section 12(1) of the Arbitration and Conciliation Act, 1996, to the Registrar (Judicial-I) of this Court.

(iii) At the first instance, the parties shall appear before the prospective Arbitrator within a period of three weeks from today on a date which may be mutually fixed by the learned Sole Arbitrator.

(iv) 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.

(v) All contentions of the parties including on merits of the matter are expressly kept open.

(vi) The interim application is disposed of in the above terms, with no order as to costs.

(vii) The learned Arbitrator shall proceed with the arbitration proceedings from the present stage onwards, which shall be subject to any contentions raised to the contrary by the parties.

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

“Shri. Jainarayan Patel

Resi. Flat No.2501, Celesta, Planet Godrej
Simplex Mills Compound, 30, K. K. Marg,
SGM Chowk, Near Jacob Circle,

Mahalaxmi, Mumbai – 400 011.

Ph. No.022-23097676

Mobile No.9167888444 / 9422803450

Off. Suite No.234, DBS Business Center,

2nd Floor, 213, Raheja Chambers,

Free Press Journal Road,

Nariman Point, Mumbai – 400 021.

Ph. No.022-40509234

C.V. BHADANG, J.