

3. By this petition filed under Section 11 of the Arbitration and Conciliation Act, 1996, the petitioner has approached this Court for appointment of presiding arbitrator in the arbitral tribunal as per the arbitration clause forming part of a development agreement / contract executed between the parties.

4. The arbitration clause reads as follows:-

“4 ARBITRATION

In case of any dispute and difference arising out of and / in relation of this contract the same shall be settled through arbitration consisting three arbitrator panel, one to be nominated by contractor and one to be nominated by employer. The two arbitrators so nominated shall nominate the third arbitrator who shall act as presiding arbitrator for the purpose of this clause, the provisions of the arbitration and conciliation act 1996 with relevant amendments shall be applicable.”

5. In the backdrop of certain disputes that arose between the parties, the petitioner as well as the respondents appointed their respective nominees as arbitrators in terms of the above quoted arbitration clause. Learned arbitrators were required to agree upon the name of the presiding arbitrator in terms of the said clause. But, it appears that there was no consensus on the said aspect of the matter. It is in this backdrop that the petitioner has filed the present petition wherein the respondents have appeared through counsel.

6. The facts placed on record on behalf of the petitioner were not denied by the learned counsel for the respondents and it was submitted that since there was a deadlock on the issue of appointment of presiding arbitrator, this Court may exercise power in order to find a solution to the problem faced by the parties.

7. During the course of arguments, it was suggested that a retired District Judge could be appointed as the presiding arbitrator, considering

the fact that the nominees appointed as arbitrators by both the parties are experts of their respective fields.

8. In view of the above, Mr. S. M. Deshmukh, a retired District Judge is appointed as the presiding arbitrator. The details of the presiding arbitrator are as follows:-

Mr. S. M. Deshmukh

Block No.13/14, Building No. "O"

Kumar Park-off Kondhwa Road,

Bibwewadi, Pune 411 037

Contact No.20-24216979

9. The parties to immediately inform the presiding arbitrator about his appointment. The presiding arbitrator is requested to submit his consent and disclosure statement in terms of Section 11(8) and 12(1) of the aforesaid Act within four weeks from today to the Registrar (Judicial) of this Court.

10. Upon the consent and the disclosure statement being submitted to the Registrar (Judicial) of this Court, the arbitral tribunal with the aforesaid presiding arbitrator shall commence proceedings at Pune.

11. The fees of the learned Arbitrators shall be fixed in terms of the Fourth Schedule to the aforesaid Act.

12. All questions are kept open.

13. Arbitration Petition No.196 of 2022 stands disposed of accordingly.

14. At this stage, Mr. Abhishek Shrinivasan, learned counsel appearing for the respondents informs this Court that for the same relief i.e., appointment of the presiding arbitrator, even the respondents had filed a petition bearing Arbitration Petition (St.) No.22576 of 2022

before this Court and the same is pending. He submits that in view of the order passed today in Arbitration Petition No.196 of 2022, Arbitration Petition (St.) No.22576 of 2022 filed by the respondents may be disposed of.

15. In the light of the above, Arbitration Petition (St.) No.22576 of 2022 is taken on Board.

16. Considering the appointment of the presiding arbitrator as per the order passed today in Arbitration Petition No.196 of 2022, Arbitration Petition (St.) No.22576 of 2022 stands disposed of.

(MANISH PITALE, J.)

Minal Parab