

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

ARBITRATION PETITION NO.178 OF 2022

Kaustubh Kishore Desai and another	...	Petitioners
Vs.		
M/s. Dream Homes and others	...	Respondents

Mr. Paresh C. Mankad with Mr. Nihar P. Mankad i/b. Mr. Pravin D. Kadam for
Petitioners.

Mr. Sanket S. Kulkarni and Mr. Amitabh Singh for Respondents.

CORAM : MANISH PITALE, J.

DATE : NOVEMBER 29, 2022

P.C. :

. By this petition filed under Section 11 of the Arbitration and Conciliation Act, 1996, the petitioners have prayed for appointment of an arbitrator.

2. There is no dispute between the parties that the Partnership Deed as well as the Development Agreement executed between the parties, both, consist of arbitration clauses No.23 and 21 respectively, which read as follows:-

“23. If during the continuance of the Partnership business or at any time thereafter any difference or dispute shall arise between the parties hereto the same shall be decided by the Arbitration as provided under the Indian Arbitration Act, 1940, and / or any of its modifications, alterations and / substitution then in force.

21. In case of any disputes, doubts, or differences arising between the parties hereto, in respect of any of the terms and conditions of this agreement or in respect of interpretation, of any of the terms or conditions of this presents or in respect of any other matter, cause or thing whatsoever not contained herein otherwise provided for, the same shall be referred to adjudication to the Arbitration subject to the provisions of the Arbitration & Conciliation Act, 1996 or any statutory modifications or re-enactment thereof for the time being in force.”

3. There is also no dispute about the fact that the petitioner has invoked the arbitration clause but the arbitrator could not be appointed

by consensus of the parties.

4. Upon notice being issued, the respondents have appeared through counsel and the learned counsel for the parties jointly agree to appointment of Justice Mr. A. V. Nirgude, a former Judge of this Court as the arbitrator.

5. Accordingly, Justice Mr. A. V. Nirgude, a former Judge of this Court is appointed as the arbitrator. The details of the learned Arbitrator are as follows:-

Hon'ble Mr. Justice A. V. Nirgude

Oriental Business Centre,
8, Rajabahadur Mansion Ambalal Doshi Marg,
Fort, Mumbai - 400 023.
Mob. No.+91 98224 72080 / Ph.No.0712 - 2251899.

6. The parties shall immediately inform the learned Arbitrator about the order passed today.

7. Learned Arbitrator is requested to submit his consent and disclosure statement in terms of Sections 11(8) read with 12(1) of the aforesaid Act within four weeks to the Registrar (Judicial) of this Court.

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

9. All questions are kept open.

10. Petition stands disposed of.

11. It is made clear that the arbitration proceedings would be undertaken in respect of both, the partnership deed as well as the development agreement at Mumbai with the agreement of the parties.

(MANISH PITALE, J.)