

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

ARBITRATION PETITION NO. 112 OF 2019

Vilas Shankarrao Ghatage ..Petitioner
vs.
M/s.GTL Infrastructure Ltd. ..Respondent

Mr.Rahul Kadam, for the Petitioner.

Mr.Abhishek Bhadang with Rucha Surve i/b. Althea Law LLP, for
the Respondent.

CORAM : G.S. KULKARNI, J.

DATE : AUGUST 10, 2022.

PC.:

1. Heard learned Counsel for the petitioner and learned Counsel for the respondent.
2. This is a petition filed under Section 11 of the Arbitration and Conciliation Act, 1996 (for short “**the Act**”) whereby the petitioner has prayed for appointment of an arbitral tribunal for adjudication of the disputes and differences which have arisen between the parties under the Licence Agreement dated 6 June 2008.
3. Mr.Bhadang, learned Counsel for the respondent would not dispute the existence of an arbitration agreement between the parties, which is contained in Clause 16 of the said agreement. His objection is, however, that the document is not sufficiently stamped. Mr.Kadam, learned Counsel for the petitioner, on instructions, referring to Clause 4 submits that it would be the joint obligation of the parties to register the agreement as also to pay the registration charges and stamp duty in

equal proportion. Mr.Kadam would submit that his client is ready and willing to pay the stamp duty without prejudice to his rights and contentions to recover the same from the respondent as per clause 4.

4. In view of the stand taken by the petitioner and considering the position that the document in question is not a document which is totally un-stamped, the parties can certainly be referred to arbitration by appointing an arbitral tribunal considering the recent decision of the Supreme Court in **Intercontinental Hotels Group (India) Pvt. Ltd. v. Waterline Hotels (2022 SCC OnLine SC 83)** which would permit such course of action.

5. As a result of the above discussion and in view of the fact that there exists an arbitration agreement between the parties as also there is an appropriate invocation of the arbitration agreement by the petitioner by issuing notice dated 5 July 2019, and the failure of the respondent in mutually agreeing to appoint an arbitral tribunal, is sufficient material for this Court to exercise jurisdiction under Section 11(6) of the Act to appoint an arbitral tribunal. Hence, the following order:-

ORDER

(i) Mr.Anand P. Lavate, Advocate, is appointed as a sole Arbitrator to adjudicate the disputes and differences between the parties under the Licence Agreement dated 6 June 2008;

(ii) The learned sole prospective arbitrator, fifteen days 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 Prothonotary

& Senior Master of this Court, to be placed on record of this application with a copy to be forwarded to both the parties;

(iii) The fees of the arbitration shall be borne in equal proportion by the parties and may be fixed by the learned arbitrator.

(iv) At the first instance, the parties shall appear before the prospective arbitrator on a date which may be mutually fixed by the prospective sole arbitrator;

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

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

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

Address: Flat No.2, Shubha Apartments,
Erandwane, Opp. Manohar Manual Karyalaya,
Pune-411004.
Mob. 9422646355
E-mail: advlavate@gmail.com

7. At this stage, Mr.Bhadang, learned Counsel for the respondent submits that his client is handing over the original document to the representative of the petitioner who is present in the Court, for the purposes of stamping. Mr.Kadam would accept this position.

[G.S. KULKARNI, J.]