

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
ARBITRATION PETITION NO.92 OF 2022

Shree Enterprises through Prop. Swati Tanaji Patil ... Petitioner
Vs.
Meenamani Ganga Builder LLP through Partner
Ankit Umesh Goyal ... Respondent

Mr. Pradeep Thorat a/w. Mr. Aniesh Jadhav i/b. Mr. Rajendra Jagtap for
Petitioner.

None for Respondent.

CORAM : MANISH PITALE, J.
DATE : NOVEMBER 25, 2022

P.C. :

. By this petition filed under Section 11 of the Arbitration and Conciliation Act, 1996, the petitioner is seeking appointment of an arbitrator.

2. It is brought to the notice of this Court that on earlier occasion, arbitration proceedings were undertaken before a former Judge of this Court as the sole arbitrator. But, by an order dated 30.09.2021, the learned arbitrator withdrew from the arbitration.

3. In the present petition, this Court issued notice to the respondent on 14.09.2022. The respondent was served and on 20.10.2022. This Court took note of the fact that the respondent was served and despite service, there was no appearance on behalf of the respondent. Accordingly, this petition was kept on 16.11.2022 for final disposal.

4. On 16.11.2022, the petition stood over to today, to be included in the supplementary list.

5. Mr. Thorat, learned counsel for the petitioner has handed over affidavit of service, stating that the respondent was duly informed about

listing of the petition today. The affidavit of service is taken on record.

6. It is clear from the aforementioned facts that the respondent has chosen not to appear before this Court despite service on more than one occasion. Accordingly, the petition is taken up for consideration.

7. Learned counsel for the petitioner invited attention of this Court to clause 13 in the Agreement for Building Contract executed between the parties. The said clause reads as follows:-

“13. Any disputes, differences or non performance or non-payment between the Promoters and the CONTRACTOR arising under this agreement, shall be referred to Sole Arbitrator under the provisions of Arbitration and Conciliation Act, 1996. Such Arbitration shall be held in PUNE and conducted in ENGLISH language only.”

8. As noted above, arbitration proceedings were earlier undertaken upon invocation of the arbitration clause, but the learned arbitrator chose to withdraw from the said proceedings.

9. In these circumstances, this Court is of the opinion that the present petition deserves to be allowed in terms of the prayer made therein, so that the arbitration can recommence at the earliest. The arbitration clause specifically stipulates that the arbitration shall be held at Pune.

10. Accordingly, Justice S. R. Sathe, a former Judge of this Court is appointed as the sole arbitrator. The details of the learned Arbitrator are as follows:-

Hon'ble Shri Justice S. R. Sathe

A-802, Ruturang Apartment,
Behind Paranjape School,
Kothrud, Pune - 411 038.
Tel. No.020-2539 6407

11. The petitioner is directed to immediately communicate this order to the learned Arbitrator.
12. 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.
13. The fees of the learned Arbitrator shall be fixed in terms of the Fourth Schedule to the aforesaid Act.
14. All questions are kept open.
15. Petition stands disposed of.

(MANISH PITALE, J.)

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