

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

IN ITS COMMERCIAL DIVISION

**COMMERCIAL ARBITRATION APPLICATION NO. 79 OF 2020
WITH
COMMERCIAL ARBITRATION PETITION NO. 290 OF 2020**

Saidarshan Co-operative
Housing Society Ltd. .. **Applicant/Petitioner**
Vs.
Ajantha Buildcon Pvt. Ltd. .. **Respondents**

Mr. Shreeprasad Parab, Advocate for Petitioner.

Mr. Deepak Singh i/b. S. L. Partners, Advocate for Respondent.

CORAM : G.S. KULKARNI, J.
DATE : 1 MARCH 2022.

P.C.:

1. These are two proceedings. Commercial Arbitration Application No. 79 of 2020 is filed under Section 11 of the Arbitration and Conciliation Act, 1996 (for short, “the Act”) and Commercial Arbitration Petition 290 of 2020 under Section 9 of the Act. The learned Counsel for the parties contended that these proceedings can be disposed of by appointing an arbitral tribunal and by permitting the parties to convert the Section 9 petition into a Section 17 application to be adjudicated by the arbitral tribunal. There is no dispute in regard to an arbitration agreement between the parties as contained in Clause 58 of the Development Agreement dated 28 April 2008.

2 In these circumstances, as urged on behalf of the parties, the proceedings are accordingly disposed of by the following order :

ORDER

- (i) Mr. Amrut Anil Joshi, Advocate of this Court, is appointed as a sole Arbitrator to arbitrate the disputes and differences between the parties under the Development Agreement dated 28 April 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) At the first instance, the parties shall appear before the prospective arbitrator within 10 days from today on a date which may be mutually fixed by the prospective sole arbitrator;
- (iv) The statement of claim be filed within a period of three weeks after the parties appeared before the arbitral tribunal.
- (v) The application under Section 9 of the Act be converted to the application under Section 17 of the Act.
- (vi) All contentions of the parties on merits of the matter are expressly kept open;
- (vii) The fees payable to the arbitral tribunal shall be the fees as prescribed under the Bombay High Court (Fees payable to arbitrators) Rules, 2018;
- (viii) The fees of the arbitral tribunal shall be shared by the

parties in equal proportion;

- (ix) The application is disposed of in the above terms. No costs.
- (x) Office to forward a copy of this order to the learned Arbitrator on the following address:

“Mr. Amrut Anil Joshi, Advocate,
302 B Wing, Fort Chambers,
Homi Modi Cross Lane,
Above Stock Exchange Post Office,
Fort, Mumbai – 400 001.
Mob. No. 9004200707
Email : amorjos@gmail.com

[G.S. KULKARNI, J.]