

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS COMMERCIAL DIVISION

COMM.ARBITRATION APPLICATION NO.54 OF 2022

Tata Capital Financial Services Ltd. ..Applicant
Vs.
Yashwant Dugar & Ors. ..Respondents

Mr.Rohan Savant with Mr.Digant Bhatt with Ms.Juhi Shah i/b.
I.V.Merchant & Co., for the Applicant.

Mr.Pratham Shirvale, for the Respondents.

CORAM : G.S. KULKARNI, J.
DATE : JUNE 21, 2022.

P.C.:

1. This is an application filed under Section 11 of the Arbitration and Conciliation Act, 1996 (for short “**the Act**”) whereby the applicant has prayed for reference of disputes to arbitration by appointing an arbitral tribunal. Disputes and differences have arisen between the parties under the Agreement for Working Capital Demand Loan dated 22 August 2019 and the Master Terms and Conditions dated 31 December 2018.

2. Learned Counsel for the respondents would not dispute the existence of the arbitration agreement between the parties as contained in clause No.12 of the Agreement for Working Capital Demand Loan and Clause 25 of the Master Terms and Conditions being the connected documents. There is no dispute on the invocation of the arbitration agreement.

3. Learned Counsel for the respondents has made submissions which are however on the merits of the disputes which are required to be gone into by the arbitral tribunal, hence these submissions cannot be any impediment for this Court to exercise its jurisdiction under Section 11(6) of the Act to appoint an arbitral tribunal.

4. The application is accordingly disposed of by passing the following order:-

ORDER

(i) Mr. Justice Sunil P. Deshmukh, former Judge of this Court, is appointed as a sole Arbitrator to arbitrate the disputes and differences between the parties under the Agreement for Working Capital Demand Loan dated 22 August 2019 and the Master Terms and Conditions dated 31 December 2018;

(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 payable to the arbitral tribunal shall be as prescribed under the Bombay High Court (Fees Payable to Arbitrators) Rules, 2018.

(iv) At the first instance, the parties shall appear before the prospective arbitrator within 15 days from today 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 application 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:

Mr. Justice Sunil P. Deshmukh,
Address: 701, Oval House,
British Hotel Lane,
Off Nagindas Master Road,
Fort, Mumbai.

Contact No. 9545028282
Email ID – sunilpdeshmukh@gmail.com”.

[G.S. KULKARNI, J.]