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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

COMM. ARBITRATION PETITION NO. 78 OF 2022

Nuvoco Vistas Corporation Ltd.

... Petitioner

Versus

Capacite Infraprojects Ltd.

... Respondent

Mr. Vikramaditya Deshmukh a/w Ms. Shreni Shetty and Ms. Swati Chandan i/by ANB Legal for the Petitioner.

Mr. Cyrus Ardeshir a/w Sujit Lahoti, Parth P. Shah i/by Sujit Lahoti Associates for the Respondent.

CORAM: G. S. KULKARNI, J.

DATE : 6th APRIL, 2022

P.C. :-

. This is a petition filed under Section 14 read with Section 15 of the Arbitration and Conciliation Act, 1996 (for short 'the Act') whereby prayers are made for appointment of a substitute sole arbitrator.

2. By an order dated 20th August, 2020 passed by this Court in the proceedings of LD-VC-COMMERCIAL ARBITRATION PETITION NO. 22 of 2020 filed under Section 9 of the Act, Mr.S. J. Vazifdar, former Chief Justice of Punjab & Haryana High Court was appointed as a sole arbitrator to adjudicate the disputes and differences between the parties which have arisen under the RMC Contract dated 28th July, 2017.

3. The learned sole arbitrator by his email addressed to the advocates of the parties dated 3rd November, 2020 has recused himself from the arbitral proceeding for the reasons as

recorded in the said communication.

4. Mr. Ardeshir, learned counsel for the respondents would not have objection for a substitute sole arbitrator to be appointed. In the above circumstances, this petition can be disposed of by the following order :-

ORDER

- (a) Mr. Justice S. J. Kathawalla (Retd.) is appointed as a substitute sole arbitrator to adjudicate the disputes and differences between the parties which have arisen under the RMC Contract dated 28th July, 2017.
- (b) The learned substitute arbitrator, 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 by email id - rgpsm-bhc@nic.in, to be placed on record of this petition with a copy to be forwarded to both the parties.
- (c) At the first instance, the parties shall appear before the substitute sole arbitrator within 10 days from today on a date which may be mutually fixed by the learned substitute sole arbitrator.
- (d) The fees payable to the arbitral tribunal shall be the fees as prescribed under the Bombay High Court (Fees Payable to Arbitrators) Rules, 2018.

- (e) All contentions of the parties on the merits of the dispute are expressly kept open.
- (f) The petition is disposed of in the above terms. No costs.
- (g) Office to forward a copy of this order to the learned substitute arbitrator on the following address:

43, Free Press Journal Building,
215, Nariman Point,
Mumbai – 400 021.
Mobile No. 9619180563
Email Id : skathawalla@gmail.com

[G. S. KULKARNI, J.]