

Prajakta Vartak

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
ARBITRATION APPLICATION NO. 61 OF 2021
AND
ARBITRATION PETITION NO. 124 OF 2021**

Mahendra Arora

..Applicant/Petitioner

Vs.

Jainam Realtors & Ors.

..Respondents

Mr. Ismail Shaikh with Mr. Monil Punjabi for Applicant/Petitioner.

Dr. Birendra Saraf, Senior Advocate with Mr. Kiran Jain, Mr. Ish Jain, Ms. Pooja Jain i/b. Kiran Jain & Co. for Respondents.

CORAM : G.S. KULKARNI, J.

DATE : FEBRUARY 28, 2022.

P.C.:

1. These are two proceedings. Arbitration Application No.61 of 2021 is filed under Section 11 of the Arbitration and Conciliation Act, 1996 (for short, “the Act”) and Arbitration Petition No.124 of 2021 is filed under Section 9 of the Act.

2. The disputes and differences have arisen between the parties under a contract titled as “Project Management Contract” dated 20 May, 2019. Both the proceedings were heard for some time. After hearing the parties on both these proceedings for some time, learned counsel for the parties are agreeable that the disputes and differences can be referred for adjudication by a sole arbitrator, as the mediation talks as agreed between the parties have failed. It is also agreeable to the parties that the Section 9 petition along with the pleadings is permitted to be converted into a Section 17 application to be adjudicated by the arbitral tribunal.

3. In view of the above consensus, the proceedings are required to be disposed of by the following order:-

ORDER

- (i) Mr. Naushad Engineer, Advocate of this Court, is appointed as a sole Arbitrator to arbitrate the disputes and differences between the parties under the contract titled as "Project Management Contract" dated 20 May, 2019;
- (ii) The learned prospective sole arbitrator, before entering the 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 these proceedings with a copy to be forwarded to both the parties;
- (iii) The petition under Section 9 of the Act along with pleadings shall be treated as an application under Section 17 of the Act to be adjudicated by the learned prospective sole arbitrator;
- (iv) The fees payable to the arbitral tribunal shall be as prescribed under the Bombay High Court (Fees Payable to Arbitrators) Rules, 2018.
- (v) 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;
- (vi) All contentions of the parties are expressly kept open, including the contention as urged on behalf of the respondents that some of the claims as made in the invocation notice are not arising out the contract. The respondents would be at liberty to raise all objections, including such objection before the arbitral tribunal.
- (vii) Disposed of in the above terms. No costs.
- (viii) Office to forward a copy of this order to the learned Arbitrator on the following address:

“1-D, Lentin Chambers, Dalal Street, Fort, Mumbai – 400 023.
Mobile No. 9821047087
E-mail ID – naushad.re@gmail.com ”

[G.S. KULKARNI, J.]