

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

ARBITRATION APPLICATION NO.155 OF 2022

K.Sera Sera Miniplex Ltd.

..Applicant

vs.

Abhijit Realtors and Infra Ventures Pvt.Ltd.

..Respondent

Mr.Sumeet Nankani i/b. Nikhil Rungta, for the Applicant.

Mr.Dharan V. Gandhi, for the Respondent.

CORAM : G.S. KULKARNI, J.

DATE : AUGUST 23, 2022.

PC.:

1. Heard learned Counsel for the applicant and learned Counsel for the respondent.

2. 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 appointment of an arbitral tribunal for adjudication of the disputes and differences that have arisen between the parties under the franchise agreement dated 20 July 2017, a copy of which is placed on record. There is no dispute in regard to the arbitration agreement between the parties as contained in clause No.17.9 of the agreement in question. By notice dated 1 March 2022, addressed by the Advocate for the applicant to the respondent, the applicant had invoked the arbitration agreement and sought appointment of an arbitral tribunal. Respondent by its Advocate's letter dated 5 March 2022 did not agree to the arbitrator as proposed on behalf of the applicant, while disputing the

contentions as urged on behalf of the applicant. In these circumstances, the present application has been filed.

3. Learned Counsel for the respondent submits that his client is agreeable for the disputes and differences between the parties to be referred to arbitration. In the above circumstances, as there exists arbitration agreement between the parties as also there is proper invocation of the arbitration agreement and also there is consent on behalf of the respondent to refer the disputes and differences between the parties to arbitration, the application is required to be allowed. The application is accordingly disposed of by the following order:-

ORDER

(i) Ms.Naira Jejeebhoy, Advocate of this Court, is appointed as a sole Arbitrator to adjudicate the disputes and differences between the parties under the franchise agreement dated 20 July 2017;

(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:

Readymoney Mansion, 2nd floor,
Next to Akbarallys,
Veer Nariman Road,
Fort, Mmbai-400001.

[G.S. KULKARNI, J.]