

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

COMMERCIAL ARBITRATION APPLICATION (L) NO. 5044 OF 2022

Ultra Media and Entertainment Pvt.Ltd. ...Applicant
vs.
Damani Entertainment Pvt.Ltd. ...Respondent

**WITH
COMMERCIAL ARBITRATION PETITION NO. 62 OF 2022**

Ultra Media and Entertainment Pvt.Ltd. ...Applicant
vs.
Damani Entertainment Pvt.Ltd. ...Respondent

**WITH
COMMERCIAL ARBITRATION PETITION NO. 233 OF 2021**

Ultra Media and Entertainment Pvt.Ltd. ...Petitioner
vs.
Damani Entertainment Pvt.Ltd. ...Respondent

Mr.Rashmin Khandekar with Kunal Parekh i/b. Dua Associates for
Applicant/Petitioner.
Mr.Rishi Murarka for Respondent.

CORAM : G. S. KULKARNI, J.

DATED : 5 MAY 2022

P.C. :

. This is an application filed under Section 11 read with Section 14 of the Arbitration and Conciliation Act, 1996 (for short “Act”) praying that the substitute arbitrator be appointed for adjudication of disputes and differences, which have arisen between the parties under the Agreement dated 28 July 2010.

2. Earlier, by an order passed by this Court in Commercial Arbitration Application (L) No.2709 of 2020 (G.S. Patel, J.) dated 26 October 2020, Mr. Justice Annareddy Gopal Reddy, former Judge of the Telangana High Court, was appointed as an arbitrator to adjudicate the dispute between the parties. Learned sole Arbitrator, so appointed, by his e-mail dated 24 December 2021 addressed to the Advocates for the parties, has withdrawn himself from the arbitration. Also there is a letter addressed by the learned sole Arbitrator to the Registrar (Judl.) of this Court dated 4 April 2022, which has been placed on record by the office informing about his withdrawal from the arbitration and for the reasons as set out in the said letter.

3. As the learned sole arbitrator, as appointed, has withdrawn from the reference, the present proceedings are filed praying for appointment of a substitute arbitrator.

4. In the above circumstances, the petition is required to be allowed. It is, accordingly, allowed by the following order :

ORDER

(i) Mr. Justice Dama Seshadri Naidu, Former Judge of this Court, is appointed as a substitute arbitrator to adjudicate the disputes between the parties;

(ii) The learned sole 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 application with a copy to be forwarded to both the parties;

(iii) The parties shall appear before the learned substitute arbitrator within 10 days from today on a date which may be mutually fixed by the learned substitute arbitrator;

(iv) The petitioner shall place the entire record and proceedings before the learned substitute arbitrator as may be directed;

(v) The learned substitute arbitrator shall continue the arbitral proceedings from the stage already reached and on the basis of material as placed on record before the previously appointed arbitral tribunal;

(vi) The fees payable to the arbitral tribunal shall be as prescribed under the Bombay High Court (Fees Payable to Arbitrators) Rules, 2018 and shall be borne by the parties in equal proportion;

(vii) All contentions of the parties are expressly kept open;

(viii) The petition is disposed of in the above terms. No costs;

(ix) Office to forward a copy of this order to the learned Arbitrator on the following address:

Mr.Justice Dama Seshadri Naidu,
Former Judge, Bombay High Court,
Flat No.105, Mycon Acropolis Apartments,
Cyber Hills, Behind Kakatiya Hills,
Madhapur, Hyderabad - 500081
Ph.No. 9920297826
Email ID : seshadri.law@gmail.com

AND

Mr.Justice Dama Seshadri Naidu,
Former Judge, Bombay High Court,
12-B, Bhagrathi Bhuvan,
Prof.U.U. Bhat Road, Matunga Central,
Mumbai - 400019

5. There are two more petitions filed under Section 9 of the Act. (Commercial Arbitration Petition No.233 of 2021, not on board and as taken on board) and Commercial Arbitration Petition No.62/2022. The petitions are disposed of with liberty to the Petitioner to raise all contentions before the arbitral tribunal in application to be filed under Section 17 of the Act. All contentions of the parties are kept open.

(G.S. KULKARNI, J.)