

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

ARBITRATION APPLICATION NO.342 OF 2019

Bell Finvest India Ltd.

.. Applicant

v/s.

Biswajit Saha

.. Respondent

Mr. Vinit Mehta i/b. Pravin S. Warpe for the applicant.

None for the respondent.

CORAM : A. K. MENON, J.

DATED : 28TH FEBRUARY, 2022.

P.C. :

1. By this application, the applicant seeks appointment of a Sole Arbitrator to adjudicate upon the disputes and differences that have arisen between the applicant and the respondent.

2. The respondent is absent today. The learned counsel for the applicant states that the respondent has appeared pursuant to service order dated 27th November, 2019. Order of that date records that the agreements appear to be not fully stamped.

Perusal of the agreements reveal that these are written on stamp

paper of Rs.100/- and that the stamp paper is issued in Assam that would entail payment of duty in the State of Maharashtra by virtue of the provisions of Section 3 of the Maharashtra Stamp Act, 1958.

3. The learned counsel for the applicant submits that the document was submitted to the Collector of Stamps, Mumbai for adjudication but the document has been returned with a communication dated 29th January, 2020 stating that the same cannot be adjudicated by the Collector for reasons that the property is located in Assam and he is unable to assess the value.
4. In any event, it is a case of insufficiency of stamps and by virtue of the decision of the Supreme Court in *Intercontinental Hotels Group (India) Pvt. Ltd. v/s. Waterline Hotels Pvt. Ltd. [2022 SCC OnLine SC 83]* and that ratio is squarely applicable to the facts of the present case.
5. The respondent not having appeared today, I do not see any impediment in allowing this application and appointing a Sole Arbitrator. Since we are not concerned with the merits of the dispute between the parties, those issues are to be agitated before

the arbitrator.

6. In view thereof, I pass the following order;

- (i) Mr. Apoorva Agarwal, Advocate, is appointed as Sole Arbitrator to adjudicate upon claims and counter claims, if any.
- (ii) The learned Arbitrator is requested to file his disclosure statement under Section 11(8) and Section 12(1) within four weeks with the Prothonotary and Senior Maser and provide copies to the parties.
- (iii) Parties to appear before the Sole Arbitrator on a date to be fixed by him at his earliest convenience.
- (iv) Fees payable to the Sole Arbitrator will be in accordance with the Bombay High Court (Fee Payable to Arbitrators) Rules, 2018.
- (v) Arbitration Application is disposed in the above terms.
- (vi) No costs.

(A. K. MENON, J.)