

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

ARBITRATION APPLICATION NO.310 OF 2018

Sarah Enterprises

.. Applicant

v/s.

M/s.Borivali Sai Suman Co-operative
Society Ltd. & Ors.

.. Respondents

Mr. Gul A. Madnani for the applicant.

Mr. Rohaan Cama a/w Amar Mishra, Tejas P. Kasar i/b. SRM Law
Associates for the respondent society.

CORAM : A. K. MENON, J.

DATED : 28TH FEBRUARY, 2022.

P.C. :

1. This is an arbitration application filed under Section 11 of the Arbitration and Conciliation Act. Both parties admit the execution and existence of the development agreement embodied in arbitration clause in paragraph 43.
2. Both learned counsel today states that the agreement has been acted upon and hence there is no dispute Exhibit 'A' is the

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agreement between the parties. It is seen that clause 43 makes a reference to appointment of a arbitral tribunal consisting of three arbitrators. However, today Mr. Madnani states that a Sole Arbitrator may be appointed.

3. Mr. Cama for the respondent society also states that he has instructions to state that the respondent society has agreed that in lieu of the three member tribunal, disputes and differences may be referred to the Sole Arbitrator. Mr. Cama states that the allegations on merit are not admitted by the society although he has not filed the reply to this application. He submits that all allegations on merit denied. He has proceeded on that basis.

4. In view of the fact that the parties are now agreed that the disputes and differences may be referred to the Sole Arbitrator, I pass the following order;

(i) By consent of parties, Mr. Jehangir Jeejebhoy, 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 Master 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.)