

Prajakta Vartak

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

ARBITRATION APPLICATION NO. 235 OF 2021

Reliance Infrastructure Ltd.

..Applicant

Vs.

Sarja Electrical & Engineering Service Pvt. Ltd.

..Respondent

Mr. Agni Som for applicant.

Ms. Ayodhya Patki for the respondent.

CORAM : G.S. KULKARNI, J.

DATE : 18 July, 2022.

P.C.:

1. 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 between the parties which have arisen under the Work Orders dated 16 September 2017, 16 September, 2017, 03 January, 2018, 01 December, 2018 and 20 September, 2019 for installation, testing, commissioning and handing over of the “Lighting of the Delhi Agra National Highway”, issued by the applicant to the respondent. The arbitration agreement is contained in the general conditions of the contract in clause 21.2 which is part of the clause 21 which pertains to “Governing Law & Arbitration”.

2. There is also invocation of the arbitration agreement by a notice dated 18 August, 2021 issued by the applicant on which there is no dispute. As there was no consensus between the parties in appointing an arbitral tribunal the present application came to be filed.

3. Ms. Patki, learned counsel for the respondent, on instructions, would submit that her client has no objection if the disputes in relation to all work orders be referred to arbitration by appointing a sole arbitrator. Ms. Patki also submits that the respondent also has a claim against the applicant and that the respondent would be filing a counter-claim.

4. The concern of the Court in the present proceedings is to examine the existence of the arbitration agreements in regard to which there is no dispute. There is also no dispute in regard to the invocation of the arbitration agreements. In this view of the matter, as all the work orders arise out of the same contract and as agreed between the parties as noted above, the application is required to be allowed by appointing a sole arbitrator. It is accordingly allowed by the following order:-

ORDER

(i) Mr. Justice A. K. Menon, Retired is appointed as a sole Arbitrator to arbitrate the disputes and differences between the parties under the the Work Orders dated 16 September 2017, 16 September, 2017, 03 January, 2018, 01 December, 2018 and 20 September, 2019 for installation, testing, commissioning and handing over of the Lighting of the Delhi Agra National Highway issued by the applicant to the respondent.

(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 this application with a copy to be forwarded to both the parties;

- (iii) It is open to the respondent to raise a counter-claim before the arbitral tribunal.
- (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 learned prospective arbitrator within 20 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;
- (vii) The application is 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:

“Mr. Justice A. K. Menon, Former Judge of this Court
Address: Flat No.401, Hira Baug, 254, Telana Road,
Matunga (East), Mumbai – 400 019.
Phone No. 9821041557
E-mail ID menona@live.in”

[G.S. KULKARNI, J.]