

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

COMMERCIAL ARBITRATION PETITION NO. 603 OF 2021

Parveen Batra & Anr. ... Petitioners
V/s.

Dewan Housing Finance Corporation Limited ... Respondent

WITH
INTERIM APPLICATION NO. 2849 OF 2021
AND

INTERIM APPLICATION NO. 2853 OF 2021
IN

COMMERCIAL ARBITRATION PETITION NO. 603 OF 2021

Parveen Batra & Anr. ... Applicants

IN THE MATTER BETWEEN :

Parveen Batra & Anr. ... Petitioners
V/s.

Dewan Housing Finance Corporation Limited ... Respondent

Mr. Vikramjit Singh Garewal a/w. Mr. Tushar Gujjar, Mr. Deepak Singh
i/b. SL Partners, Advocate for the Petitioners/Applicants.

Mr. Ajay Bhise i/b. Mr. Vikrant Sabne, Advocate for the Respondent

CORAM : G.S.KULKARNI, J.

DATE : 1 February, 2022

PC.:

1. This is a petition filed under section 34 of the Arbitration and

Conciliation Act, 1996 (for short “the Act”) whereby an arbitral award dated 29 June, 2021 has been challenged. The primary ground as raised by the petitioner to assail the arbitral award, is on the unilateral appointment of the arbitral tribunal by the respondent. It is contended that such issue goes to the root of the matter as such appointment would be contrary to the well established principles of law as laid down in the decisions of the Supreme Court in **TRF Limited Versus Energo Engineering Project Limited**¹ and **Perkins Eastman Architects DPC & Anr. Versus HSCC (India) Limited**² and in the decision of this Court in **Meenu Arora & Ors. Versus Dewan Housing Finance Corporation & Ors.**³. Considering such contentions as advanced on behalf of the petitioner, learned counsel for the respondent has taken a fair stand. He would submit that by consent the impugned order can be set aside and the parties be referred to arbitration by appointing a substitute arbitrator.

2. In view of the fair stand as taken on behalf of the respondent, further adjudication of this petition is not called for, as the respondent has agreed that by consent, the impugned award can be set aside and an independent substitute arbitrator be appointed to adjudicate the

1 (2017) 8 SCC 377.

2 2019 SCC OnLine SC 1517.

3 2019 SCC OnLine Bom. 367.

disputes and difference between the parties, which have arisen under the Loan Agreement dated 30 October, 2014 to the petition.

3. Accordingly, the petition can be disposed of by the following order:

ORDER

- (i) The impugned award dated 29 June, 2021 passed by the learned sole arbitrator by consent is set aside;
- (ii) Mr.Rajeev Singh, Advocate is appointed as a sole arbitrator to adjudicate the disputes and differences between the parties which have arisen under the Loan Agreement of 30 October, 2014 to the petition.
- (iii) The learned sole arbitrator, ten 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;
- (iv) At the first instance, the parties shall appear before the learned sole arbitrator within 10 days from today on a date which may be mutually fixed by the learned sole arbitrator;
- (vi) Let the statement of claim be filed by the respondent

within a period of 10 days of the learned substitute arbitrator entering the reference.

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

(vii) The petition 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. Rajeev Singh, Advocate
202, 2nd floor, Chamber of
Mr. Rohit Kapadia, Senior Counsel,
Mulla House, Fort, Mumbai – 1.
Mob.: 9987048073
Email: advrajeevsingh83@gmail.com

4. In view of disposal of the Petition, Interim Applications do not survive, the same are accordingly disposed of.

(G.S.KULKARNI, J.)