

Prajakta Vartak

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

ARBITRATION APPLICATION NO. 251 OF 2021

Elixir Equities Pvt. Ltd. ..Applicant

Vs.

Puloma Dushant Dalal ..Respondent

Mr. Kaushal Tamhane with Mr. Nihar Chitre i/b. Dhanuka & Partners for applicant.

Mr. Aryan Srivastava i/b. Wadia Ghandy & Co. for Respondent.

CORAM : G.S. KULKARNI, J.

DATE : JULY 25, 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 which have arisen between the parties under a Portfolio Management Agreement dated 28 April, 2017. The arbitration agreement is contained in clause 18 of the agreement in question, on which there is no dispute. There is also a lawful invocation of the arbitration agreement, which is also not in dispute.

2. Considering the amounts as involved in the dispute, on 21 June, 2022 while adjourning the hearing of the application, it was expected that the parties would settle the disputes, hence the proceedings are listed under the caption “for settlement”. Learned counsel for the parties state that the settlement talks have failed.

3. In the above circumstances, the parties would agree that the disputes and differences be referred for arbitration by appointing an arbitral tribunal.

4. In the above circumstances and in view of the consensus between the parties that the disputes and differences between the parties be referred to arbitration by appointing an arbitrator, this Court needs to exercise jurisdiction under Section 11(6) of the Act and appoint an arbitral tribunal. Hence, the following order:-

ORDER

- (i) Mr.Saurabh Pakale, Advocate of this Court, is appointed as a sole Arbitrator to arbitrate the disputes and differences between the parties under the Portfolio Management Agreement dated 28 April, 2017.
- (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) The fees payable to the arbitral tribunal shall be as prescribed under the Bombay High Court (Fees Payable to Arbitrators) Rules, 2018.
- (iv) At the first instance, the parties shall appear before the prospective arbitrator within 15 days from today on a date which may be mutually fixed by the prospective sole arbitrator;
- (v) All contentions of the parties are expressly kept open;
- (vi) The application is disposed of in the above terms. No costs.
- (vii) Office to forward a copy of this order to the learned Arbitrator on the following address:

“Add: C/o. Mr. Gaurav Joshi, Senior Advocate,
302B, Fort Chambers, Homi Modi Cross Lane,
Off Hamam Street, Near BSE Post Office,
Fort, Mumbai – 400 001.
Contact No. 9820416026
Mail ID : saurabh.pakale@gmail.com ”

[G.S. KULKARNI, J.]