

Vidya Amin

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

ARBITRATION APPLICATION NO. 304 OF 2021

Sumit Bajaj .. Applicant
Vs.
Hindustan Construction Co. Ltd. .. Respondent

Mr. Rishi Murarka i/b. Bimal Rajasekhar for the applicant.
Mr. Ativ Patel, Drshit Dave, Harshad Vyas, Viloma Shah i/b. AVP
Partners for the respondent.

CORAM : G.S. KULKARNI, J.
DATE : AUGUST 23, 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 to adjudicate the disputes and differences between the parties, which have arisen under Work Orders dated 20 January, 2013 and 28 February, 2013. The arbitration agreement between the parties is contained in Clause 32 of the respective Work Orders in regard to which there is no dispute. Also there is no dispute in regard to the invocation of the arbitration agreement by the petitioner by its consolidated letter dated 18 August, 2020. As the respondent had not accepted the request of the applicant for appointment of the arbitral tribunal, hence the present application came to be filed.

2. At the outset, it is required to be observed that the applicant-Sumit Bajai has filed the present proceeding, as set out in the cause title

in capacity of being a sole proprietor of Associated Traders, being the contracting party. Learned counsel for the applicant has contended that although there were two work orders, however considering the decision of the Supreme Court in **Ameet Lalchand Shah and Ors. vs. Rishabh Enterprises & Anr.**¹, a common reference to the arbitrator be made. It is also his submission that both the work orders are interconnected as also the payments made to the respondent is also a lumpsum payment in regard to both the work orders.

3. Learned counsel for the respondent has taken a fair stand that the respondent would not dispute the existence of the arbitration agreement as also his client would not averse for the disputes to be referred to arbitrator by appointing an arbitral tribunal. He, however, submits that all contentions of the respondent as also the contentions in regard to limitations be kept open.

4. In the above circumstances, in my opinion, the requirements for this Court to exercise jurisdiction under section 11(6) of the Act are eminently present. The application is accordingly allowed by the following order:

ORDER

- (i) Mr. Hormaz C. Daruwalla, Advocate is appointed as a sole arbitrator to adjudicate the disputes between the parties which

¹ Civil Appeal No. 4690 of 2018 (Arising out of SLP(C) No. 16789 of 2017)

have arisen under the Work Orders dated 20 January, 2013 and 28 February, 2013.

(ii) The learned sole arbitrator, 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;

(iii) 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 learned sole arbitrator;

(iv) The fees payable to the arbitral tribunal shall be as prescribed under the Bombay High Court (Fees Payable to Arbitrators) Rules, 2018 .

(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:

Mr. Hormaz C. Daruwalla, Advocate
Behramji Mansion, 3rd floor,
Sir P.M. Road, Mumbai – 400 001.
Tel. No. 22662506/1582
Mob. no. 9820004743
Email : hormaz@gmail.com

[G.S. KULKARNI, J.]