

PVR

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

COMMERCIAL ARBITRATION APPLICATION NO.24 OF 2022

Kannamwar Nagar Nagarpalika Bhadekaru
Co-op. Hsg. Society Ltd. ..Applicant
Vs.
M/s.Excel Arcade Pvt.Ltd. ..Respondent

Mr.Naushad Engineer & Mr.Nirman Sharma with Mr.Abir Patel with
Ms.Lavina Bhargava i/b. Wadia Ghandy & Co., for the Petitioner.

Mr.Sujay H.Gangal, for the Respondent.

**CORAM : G.S. KULKARNI, J.
DATE : APRIL 13, 2022.**

PC.:

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 a Development Agreement dated 30 December 2005 and Supplemental Agreement dated 10 July 2011 for redevelopment of the property. There is an arbitration agreement between the parties, which is contained in Clause 32 of the Agreement. There is no dispute on the existence of the Arbitration agreement. The applicant by its advocate’s letter dated 7

October, 2021 had invoked the arbitration agreement, whereby a request was made to the respondent to refer the disputes in regard to the redevelopment by appointing an arbitral tribunal. The name of the proposed arbitrator was also set out in paragraph (d) of the said letter, however, the respondent did not respond to such request. Hence, the present application was filed.

2. Learned Counsel for the respondent would also not dispute the existence of the arbitration clause as also the notice as issued by the petitioner/applicant invoking the arbitration agreement dated 7 October 2021. The respondent is agreeable that a sole arbitrator be appointed to adjudicate the disputes and differences between the parties.

3. In view of the consensus as noted above, the application would be required to be allowed. Hence, the following order:

ORDER

(i) Mr. Rashmin Khandekar, Advocate is appointed as a sole arbitrator to adjudicate the disputes between the parties which have arisen under the Development Agreement dated 30 December 2005 and Supplemental Agreement dated 10 July 2011 for redevelopment of the property.

(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 10 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 the fees 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.Rashmin Khandekar, Advocate
11C, Examiner Prem Building, 1st floor,
Dalal Street, Kala Ghoda,
Fort, Mumbai – 400 001.
Contact No. 022-22650121.

[G.S. KULKARNI, J.]