

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

ARBITRATION PETITION NO. 11 OF 2023

Ujjwal Pune Limited	...Petitioner
Vs.	
The Pune Municipal Corporation	...Respondent

Mr. Zubin Behramkamdin, Senior Advocate a/w. Ms. Sushma Nagaraj, Ms. Vibhuti Keny and Ms. Sakshi Kapadia i/b. Converse Law, for the Petitioner.

Mr. Abhijit Kulkarni a/w. Mr. Krushna Jaybhay, Mr. Aditya Mahadik, Ms. Sweta Shah, for the Respondent – Corporation.

Ms. Nisha Chavan, Chief Law Officer, Pune Municipal Corporation.

**CORAM : MANISH PITALE, J.
DATE : 14 MARCH 2023**

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P.C.

. By this petition, filed under Section 11 of the Arbitration and Conciliation Act, 1996, the petitioner has prayed for appointment of sole arbitration for resolution of disputes between the parties.

2. The respondent – Corporation had awarded a contract to the petitioner for street lighting in the city of Pune. The said contract consisted of an arbitration clause in the event disputes arose between the parties. The arbitration clause specified Pune as the place of arbitration and further provided that there shall be a tribunal of three arbitrators, of whom respondent-Corporation

and the Developer shall select one each, and the third arbitrator shall be appointed by the two arbitrators.

3. On earlier dates, when this petition was listed, the learned counsel for the respondent-Corporation raised an objection, inter alia, stating that earlier events were not properly placed before this Court on behalf of the petitioner and that according to the respondent – Corporation in the face of improper invocation of the arbitration clause, the petition ought not to be entertained. Thereafter, learned counsel appearing for the respondent – Corporation, submitted that specific instructions were received from the Corporation to make a statement that if the petitioner is agreeable, arbitral tribunal of three members can be appointed, which would include name of the person named as arbitrator in the present petition with the respondent – Corporation proposing the specific name of Shri. D. G. Karnik, former Judge of this Court as its nominee. This could facilitate the appointment of third arbitrator, leading to constitution of the three member arbitral tribunal.

4. The learned senior counsel appearing for the petitioner submitted that this may lead to heavy costs of arbitration and the petitioner would prefer a sole arbitrator to resolve the disputes between the parties. In this light, the learned senior counsel for the petitioner took specific instructions and submitted that the petitioner was agreeable to the name proposed by the respondent-

Corporation i.e. Justice D. G. Karnik, former Judge of this Court, for appointment as a sole arbitrator for resolving the disputes between the parties.

5. Learned counsel appearing for the respondent-Corporation also took instructions in the matter and submitted that notwithstanding the specific stipulation in the arbitration clause, even the respondent was agreeable for such proposal.

6. This Court records that despite specific stipulation contained in Clause 26.2.2 of the contract providing for tribunal of three arbitrators, the parties before this Court expressly agreed for appointment of sole arbitrator. The name of the sole arbitrator proposed on behalf of the respondent – Corporation is accepted by the petitioner.

7. In the light of the above, the petition is disposed of by appointing Justice D. G. Karnik, former Judge of this Court, as the sole arbitrator for resolving the disputes between the parties. As per the arbitration clause, the place of arbitration shall be Pune.

8. The details of the learned arbitrator are as follows:

Hon'ble Shri. Justice Dilip G. Karnik
Flat No.B4, Lake View, 1127, Shivaji Nagar,
Model Colony, Pune – 411 016.
Office : 314A, 3rd Floor, Commerce House,

140, Nagindas Master Road, Behind
Khyber Restaurant, Fort, Mumbai – 400 001.
Mobile : 9324386697
E-mail: dgkarnik@gmail.com

9. The parties shall immediately inform the learned arbitrator about the order passed today.
10. The learned arbitrator is requested to send his consent and disclosure statement as per Section 11(8) and 12(1) of the aforesaid Act, within four weeks from today to the Registrar (Judicial) of this Court.
11. The fees of the learned arbitrator shall be as per schedule IV to the said Act.
12. All contentions of the parties are kept open.
13. The petition stands disposed of, in aforesaid terms.

MANISH PITALE, J.