

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

ARBITRATION PETITION NO.126 OF 2023

Gera Developments Private Limited through
its Authorized Representative Avinash Bhogale ... Petitioner
Vs.

Bombay Glaze through its sole proprietor
Mukesh Pillai ... Respondent

AND

ARBITRATION PETITION NO.130 OF 2023

Gera Realty Private Estates through
its Authorized Representative Avinash Bhogale ... Petitioner
Vs.

Bombay Glaze through its sole proprietor
Mukesh Pillai ... Respondent

Mr. Dalal Dormaan Jamshid for petitioner in both the Petitions.

Mr. Shirin Merchant for Respondent in both the Petitions.

CORAM : MANISH PITALE, J.

DATE : APRIL 13, 2023

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1. The petitioners in these petitions filed under Section 11 of the Arbitration and Conciliation Act, 1996 are sister-concerns while the respondent is common. The petitions are filed in the backdrop of work orders issued in favour of the respondent. The work orders contained an arbitration clause stating that in case of disputes between the parties, the same would be referred to the Association of Pune Builders and Promoters (now known as CREDAI - Pune Metro) for arbitration.

2. The documents on record show that in the context of the work order in Arbitration Petition No.126 of 2023 and the work order along with supplementary work order in Arbitration Petition No.130 of 2023, the petitioners invoked arbitration, to which there was no response on

the part of the respondent. In that light, the present petitions have been filed wherein the respondent has appeared through counsel. Even while invoking the arbitration clauses, the petitioners proposed appointment of a neutral arbitrator but since there was no response from the respondent, the appointment of arbitrator could not fructify, as a consequence of which, the present petitions have been filed.

3. The learned counsel for the respondent does not seriously dispute the fact that there are arbitration clauses in the work orders and there are indeed disputes between the parties. Therefore, this Court is of the opinion that the disputes can be referred to arbitration. The parties are from Pune and the work orders are also issued at Pune. Therefore, a sole arbitrator can be appointed for the arbitration proceedings to be undertaken at Pune.

4. The learned counsel for the petitioners submitted that the disputes concerning both the entities could be referred to arbitration before Smt. Dr. Justice Shalini Phansalkar-Joshi, a former Judge of this Court, who is available at Pune. The learned counsel for the respondent, on instructions, submits that there is no objection to the said proposal.

5. Accordingly, Justice Shalini Phansalkar-Joshi, a former Judge of this Court, is appointed as the Sole Arbitrator for resolution of disputes between the parties. It is clarified that the learned arbitrator would take up the proceedings for resolution of disputes, concerning both the entities in the context of work order / contract order No.19002961 dated 13.08.2019 as also work order / contract order No.19002319 dated 08.02.2019, which was amended by Amendment No.1 on 09.07.2019 and supplementary work order / contract order No.19003633 dated 24.01.2020.

6. The contact details of the learned Arbitrator are as follows:-

Hon'ble Smt. Dr. Justice Shalini Phansalkar-Joshi

Bungalow No.12,

Bhagya Chintamani Nagar,

Poud Road, Kothurd,

Pune-411 038.

Mob.: 9657188676

E-mail: phansalkarjoshi@gmail.com

7. The parties undertake to communicate this order to the learned arbitrator immediately.

8. The learned Arbitrator is requested to communicate her consent and disclosure statement in terms of Section 11(8) and 12(1) of the Arbitration and Conciliation Act, 1996 to the Registrar (Judicial) of this Court, within four weeks from today.

9. The fees of the learned arbitrator shall be as per Schedule IV of the Act.

10. All questions are kept open.

11. The petitions are disposed of.

(MANISH PITALE, J.)

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