



Gaikwad RD

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
ARBITRATION PETITION NO.80 OF 2019

Bridgestone India Pvt. Ltd.

...Petitioner

Versus

Transocean Express Logistics Pvt. Ltd.

...Respondent

Ms. Leona Furtado, with Nadeem Shama & Prashant Bothe, i/b. PAN
India Legal Services LLP, for the Applicant.
None for the Respondent.

CORAM : Dr. Neela Gokhale, J.**DATED : 3rd November 2023****PC:-**

1. Applicant is seeking appointment of a sole arbitrator to adjudicate the disputes arising between the parties out of the Clearing and Forwarding Agent Agreement dated 10th January 2014.

2. The Applicant is engaged in the business of manufacturing, importing and selling of passenger car, Truck and Bus radial tyres in India and the Respondent is having necessary infrastructure and competence to act as the Clearing and Forwarding Agent. The Applicant had appointed the Respondent as 'Clearing and Forwarding Agent' by the agreement dated 10th January 2014. The Applicant had started availing services of the Respondent from time

to time. However, some disputes arise between the parties in respect of certain terms and conditions of the said agreement. Hence, the Applicant invoked the arbitration clause in the Agreement.

3. Ms. Furtado, learned Counsel appears for the Applicant. This Court by its order dated 28th August 2019 directed issuance of notice to Respondent returnable on 11th September 2019 and had permitted the Applicant to serve the Respondent by private notice as well. Even on the following date, the Respondent failed to appear and pursuant to the order dated 18th September 2019, the Applicant attempted to serve the Respondent by publishing the notice in the newspapers namely 'Free Press Journal' and 'Navshakti' dated 29th January 2020. However, the Respondent has failed to appear either in person or through a representative. Ms. Furtado, learned Counsel states that in terms of Clause 15 of the agreement, the dispute was earlier referred to Mr. V. K. Deshpande, retired District Judge, as nominated by the Managing Director of the Applicant Company. Said Mr. Deshpande had entered reference in the proceedings. The Applicant had filed its claim and the Respondent had also filed a statement of defence and counter claim. The Respondent, thereafter, raises an objection regarding appointment of the learned Sole Arbitrator. The learned Arbitrator, thereafter, by his letter dated 29th January 2019 communicated his inability to continue as Arbitrator and has withdrawn from the arbitration proceedings.

4. In these circumstances, Ms. Furtado states that the present application for appointment of arbitrator afresh have arisen. I am satisfied with the necessity made out by the Applicant in its request to appoint a Sole Arbitrator. Hence, I pass the following order:

ORDER

1. Smt. Nisha S. Ruikar, Advocate, is appointed as a Sole Arbitrator to enter reference and adjudicate the disputes arising between the parties out of the Clearing and Forwarding Agent Agreement dated 10th January 2014. The seat of the arbitration shall be Pune.
2. The learned Sole Arbitrator shall forward a statement of disclosure as per the requirement of Section 12(1) of Arbitration and Conciliation Act 1996 to the Prothonotary and Senior Master of this Court to be placed on record of this Petition with a copy forwarded to both the parties.
3. At the first instance the parties shall appear before the learned Arbitrator within a period of ten days from the date of uploading of this order or on such date that may be fixed by the Sole Arbitrator.
4. All contentions of the parties on merits of the disputes are expressly left open.

5. The fees payable to the Arbitral Tribunal shall be in accordance with the Bombay High Court (Fee payable to the Arbitrator) Rules, 2018, as amended which shall be borne by the parties in equal proportion.
6. The Petition is disposed of in the above terms. There will be no order as to costs.
7. Office to forward a copy of this order to the learned Sole Arbitrator on the following address:

"Smt. Nisha S. Ruikar, Advocate,

Office No.14, 4th Floor, Shree Chambers,

Opp: Gate No.4 of Shivajinagar District Court,

Besides Family Court Bldg., Pune 411005,

Telephone No.02025533353,

OfficeMob:09422032300,

E-mail: nisha.ruikar@gmail.com;

ruikar.office@gmail.com"

(Dr. Neela Gokhale, J)