

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

ARBITRATION PETITION NO. 141 OF 2022

Varada Instruments,
Through Proprietor,
Mrs. Sanchita Viraj Kulkarni

...Petitioner

Versus

Ardent Machinfabrik Pvt. Ltd.,
Linnhoff India Pvt. Ltd.

...Respondent

- Mr. Nikhil M. Pujari, for Petitioner.

CORAM : MANISH PITALE, J

DATE : 25th JANUARY, 2023.

P. C. :

1. Heard learned Counsel for the Petitioner.
2. By this petition filed under Section 11(6) of the Arbitration and Conciliation Act, 1996, the Petitioner has approached this Court seeking appointment of Arbitrator for resolution of disputes between the parties. This Court issued notice in the present petition, which was duly served on the Respondent.
3. In the order dated 03th January, 2023, this Court took note of the fact that the sole Respondent was duly served and yet there was no appearance on his behalf. As a matter of last chance, the present petition was kept for further consideration today.
4. Even today there is no appearance on behalf of the sole Respondent. This Court is proceeding to dispose of the petition.

5. The learned Counsel for the Petitioner invited attention of this Court to purchase orders placed by the Respondent, whereby the Respondent purchased transmitters from the Petitioner herein. Each of the Purchase Order contained an Arbitration Clause, stipulating that in case of dispute between the parties, the same would be resolved by way of Arbitration before sole Arbitrator.

6. On 19th April, 2022, the Petitioner issued a notice invoking the Arbitration Clauses in the purchase orders dated 15th April, 2019, 19th June, 2019, 05th December, 2019, 05th December, 2019, 14th January, 2020 and 11th February, 2020. The Petitioner also proposed appointment of a retired Judge of this Court as the sole Arbitrator.

7. There was no response to the aforesaid notice on behalf of the Respondent. It is in this backdrop that Petitioner has filed the present petition.

8. This Court is satisfied that the factors necessary for invoking jurisdiction of this Court are satisfied in the present case. In the interest of justice, this Court is of the opinion that the Arbitration proceedings ought to be conducted at Pune, for the reason that the Petitioner is located at Pune and Respondent has one of its offices at Pune. Considering the scope of the matter and the financial implications, this Court is of the opinion that a retired District Judge, who is available at Pune should be appointed as the sole Arbitrator.

Accordingly, **Mr. S. M. Deshmukh**, a retired District Judge, is appointed as a sole Arbitrator. The details of the learned Arbitrator are as follows :

Mr. S.M. Deshmukh,
Block No. 13/14, Building No. "O" Kumar Part-off,
Kondhwa Road, Bibwewadi, Pune - 411 037.
Phone No. 02 - 24216979.

9. The petitioner undertakes to inform the learned Arbitrator about the order passed today.

10. The learned Arbitrator is requested to communicate his consent and Disclosure Statement as per Section 11(8) r/w Section 12(1) of the said Act, within four weeks to the Registrar (Judicial) of this Court.

11. The fees of the Arbitrator shall be as per Schedule IV to the Aforesaid Act.

12. All other questions are kept open. It is also left to the discretion of the learned Arbitrator as to whether all the disputes arising from the purchase orders are to be consolidated while conducting the Arbitral proceedings.

13. The petition stands disposed of.

(MANISH PITALE, J.)