

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
ARBITRATION PETITION NO. 202 OF 2022**

M/s. Aswani Builders, Through Managing Partner,
Mr. Lal Nathirlal Aswani and another ... Petitioners

vs.

Daulat Nagar Co-op. Hsg. Soc. Ltd., Through Secretary ... Respondent

Mr. Dilip Lal Aswani, in-person for petitioners.

Mr. Mandar Limaye for respondent.

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**CORAM : MANISH PITALE, J
DATE : 18th APRIL, 2023**

P.C. :

. By this petition filed under Section 11 of the Arbitration and Conciliation Act, 1996, the petitioners have approached this Court, for appointment of arbitrator, in the context of disputes that have arisen between the parties. The arbitration clause is contained in agreement dated 14th July, 1970.

2. The petitioner No.2, as partner of petitioner No.1-firm, issued notice dated 12th May, 2022 to the respondent-Society, invoking the arbitration clause. The respondent-Society did not respond to the said notice of invocation and hence, the petitioners filed the present petition.

3. When the petition is called out for hearing, Mr. Dilip Lal Aswani has appeared to represent the petitioners. He has tendered a copy of Power of Attorney executed by petitioner No.2, who is the managing partner of the petitioner No.1-firm. The Power of Attorney authorizes Mr. Dilip Lal Aswani

to appear in court proceedings. A copy of the Power of Attorney is taken on record and marked 'X'.

4. This Court is informed that Mr. Dilip Lal Aswani, as recorded in the Power of Attorney, is the son of petitioner No.2. It is stated that the petitioner No.2 is about 90 years old and due to his indifferent health, he has authorized his son Mr. Dilip Lal Aswani to represent the petitioners before this Court.

5. In the interest of justice, Mr. Dilip Lal Aswani is permitted to appear for the petitioners. He prays for the petition to be allowed, in the light of invocation of arbitration clause, as per notice dated 12th May, 2022.

6. Mr. Limaye, learned counsel appearing for the respondent-Society, submits that disputes have indeed arisen between the parties. But, a solution is suggested, in the light of an alternative way of access provided by the respondent-Society. But, the petitioners are not agreeable. Consideration of such contention is beyond the scope of the present petition.

7. This Court is convinced that there is an arbitration clause, which has been invoked and there are arbitrable disputes between the parties and therefore, the present petition can be allowed.

8. At this stage, Mr. Dilip Lal Aswani, appearing for the petitioners and the learned counsel for the respondent, agreed upon appointment of Mr. Dilip Ganpatrao Murumkar, retired District Judge available at Thane, to be appointed as the sole arbitrator for resolution of disputes between the parties.

9. Accordingly, Mr. Dilip Ganpatrao Murumkar, retired District Judge, is appointed as the sole arbitrator. The details of the learned arbitrator are as follows:

Shree Shreeji Dham, B/2, A/2,
Behind Raghukul CHS, Parsik Nagar,
Kharegaon, Kalwa West,
Thane-400 605.
Mob.: 9892 43 93 94
E-mail: dmurumkar@gmail.com

10. The parties undertake to inform the learned arbitrator about the order passed today, at the earliest.

11. The learned arbitrator is requested to submit his consent and disclosure statement in terms of Sections 11(8) and 12(1) of the aforesaid Act within four weeks from today to the Registrar (Judicial) of this Court. The fees of the learned arbitrator shall be as per the Fourth Schedule to the said Act.

12. All questions are left open for determination by the learned arbitrator.

13. The petition stands disposed of.

(MANISH PITALE, J)

Priya Kambli