



Gaikwad RD

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
ARBITRATION PETITION NO.152 OF 2023

Eminence Landmarks LLP

...Petitioner

Versus

M/s. Gagan Platinum Spaces LLP & Ors.

...Respondents

Mr. Abhishek Srinivasan, for the Petitioner.**Mr. Dheeraj Patil, for the Respondents.**

CORAM Dr. Neela Gokhale, J.**DATED: 30th November 2023****PC:-**

1. The Petitioner seeks appointment of an arbitrator to adjudicate upon the disputes that have arisen between the parties in relation to agreement dated 25th February 2017. The Petitioner and Respondent No.1 are Limited Liability Partnership firm registered under the Limited Liability Partnership Act, 2008 (“**the LLP Act**”). The other Respondents are partners of the Respondent No.1. The Petitioner is engaged in business of investment in real estate project and the Respondent No.1 is engaged in the business of developing real estate project.

2. The learned Counsel for the Petitioner states that some disputes have arisen between the parties in terms of some

documents executed by and between the parties including mortgage deed with guarantee and indemnity bond. He draws my attention to Clause No.(7) of the agreement, which reads as thus:

“(7) All disputes and differences whatsoever arising out of or touching these presents or any clause or thing herein contained including the performance of the respective obligations of each of the Parties hereto during the subsistence of this Agreement, shall be referred by the Parties hereto to in accordance with the provisions of the Arbitration & Conciliation Act, 1996 to three Arbitrators, one to be appointed by each party and which two Arbitrators shall appoint a third Arbitrator as the presiding Arbitrator and any decision of the majority of the said Arbitrators made on the point of reference to them shall be final and binding on the Parties hereto.”

3. Pursuant to the dispute that arose between the parties, the Petitioner issued a notice dated 25th March 2023 to the Respondents calling upon them to nominate an arbitrator in terms of the clause of the agreement and accordingly communicate the same to the Petitioner. However, there was no reply from the Respondent. In these circumstances, the Petitioner has approached this court seeking appointment of arbitrator under Section 11 of the Arbitration and Conciliation Act, 1996.

4. Mr. Patil, learned Counsel for the Respondents states, on instructions, that the Respondent is also ready to refer the disputes for arbitration. In the circumstances, I pass the following order:

ORDER

1. Hon'ble Smt. Justice Shalini Phansalkar-Joshi, Retired Judge, Bombay High Court, is appointed as a Sole Arbitrator to enter reference and adjudicate the disputes between the parties out of the agreement dated 25th February 2017. 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 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:

**“Hon’ble Smt. Justice Shalini Phansalkar-Joshi,
Retired Judge, Bombay High Court,
Bungalow No.12, Bhagya-Chintamani Society,
Paud Road, Opposite Kachara Depot,
Kothrud, Pune.
Mobile No. 9657188676
Email ID: phansalkarjoshi@gmail.com”**

(Dr. Neela Gokhale, J)