

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
COMMERCIAL ARBITRATION APPLICATION NO.49 OF 2023

Jagdish Makwana ... Applicant
Vs.
Shapoorji Paloonji and Company Private Limited ... Respondent

Mr. A. M. Rajabally with Ms. Jyoti Bhatt for Applicant.

Mr. Omprakash Jha and Ms. Gayatri Mohite i/b. The Law Point for Respondent.

CORAM : MANISH PITALE, J.
DATE : SEPTEMBER 01, 2023

P.C. :

1. In this application filed under Section 11 of the Arbitration and Conciliation Act, 1996, there is no dispute raised on behalf of the respondent that there is indeed an arbitration clause contained in the sub-contract agreement executed between the parties and that the applicant invoked the arbitration clause by a notice dated 01.06.2022. In response to the said invocation notice, the respondent suggested certain names from amongst whom the sole arbitrator could be appointed in terms of the arbitration clause, but the applicant could not agree to the same, necessitating filing of the present application.

2. As the only dispute between the parties is about identifying a sole arbitrator for resolution of disputes between the parties, this Court is of the opinion that the present application can be allowed.

3. The learned counsel for the parties addressed this Court on the nature of claims raised by the applicant and considering the same, this Court is of the opinion that a former Judge of this Court can be appointed as the sole arbitrator for resolution of disputes between the parties.

4. In view of the above, Justice A. K. Menon, a former Judge of this Court is appointed as the sole arbitrator to resolve disputes between the parties. The details of the learned Arbitrator are as under:-

Hon'ble Mr. Justice Anilkumar Menon

Office Nos.4 and 5, Yashwant Chambers,
3rd Floor, 18/B, Burjorji Bharucha Marg,
Fort, Mumbai - 400 023.

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

6. Learned Arbitrator is requested to communicate his consent and disclosure statement in terms of Section 11(8) and 12(1) of the aforesaid Act to the Prothonotary and Senior Master of this Court, within three weeks from today.

7. The statement of claim shall be filed within two weeks of appearance of the parties before the learned Arbitrator. Needless to say that the learned Arbitrator shall proceed with the arbitration in accordance with law.

8. All questions are kept open for decision by the learned arbitrator.

9. The application stands disposed of.

(MANISH PITALE, J.)

Minal Parab