

rajshree

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS COMMERCIAL DIVISION
COMMERCIAL ARBITRATION PETITION NO.450 OF 2022

The B.E.S.T. Workers Union] .. Petitioner

vs.

Veera Homespace Pvt. Ltd.] .. Respondent

WITH

COMMERCIAL ARBITRATION PETITION(L) NO.1806 OF 2023

Veera Homespace Pvt. Ltd.] .. Petitioner

The B.E.S.T. Workers Union] . Respondent.

Mr.Mayur Khandeparkar a/w Dipen Furia i/b M/s. Shah and Furia Associates for the the Petitioner in CARBP No.450/2022.

Mr.Sharad Bansal i/b Alvina Castelino for Respondent No.2 in CARBPL No.1806/2023.

Mr.Hussain Ansari for Petitioners in CARBPL No.1806/2023 and for Respondent in CARBPL No.450/2022.

CORAM : BHARATI DANGRE, J

DATE : 19th JANUARY, 2023.

P.C.

1] The two Arbitration Petitions deserve disposal, in terms of the Minutes of Order where the parties have agreed to appoint Sole Arbitrator to adjudicate the disputes and differences that have arisen

between them out of, or in relation to, or in connection with the Agreement for Redevelopment dated 11.09.2009 as well as Supplementary Agreement dated 19.12.2016. They have also consented to the name of the Arbitrator and terms of the reference.

2] The Arbitration Petitions are disposed off in the wake of following Minutes of Order :

MINUTES OF ORDER

By consent of parties, the following order is passed:

1. **The B.E.S.T. Workers Union** has filed Commercial Arbitration Petition No. 450 of 2022 under Section 9 of the Arbitration and Conciliation Act, 1996, *inter alia* seeking injunction against **Veera Homespace Pvt. Ltd.** from entering into any transaction, of whatsoever nature, with any persons in respect of and/or relating to the Subject Property and/or any part thereof and further to direct **Veera Homespace Pvt. Ltd.** to disclose on oath, all assets and properties, immovable and moveable, securities, investments, receivables, monies, shares, etc. owned by the **Veera Homespace Pvt. Ltd.**, its Directors and all of its associate / subsidiary / holding Companies or Firms and further to direct **Veera Homespace Pvt. Ltd.** to furnish security in such sum and to produce and place the same at the disposal of this Hon'ble Court within such time as this Hon'ble Court may deem fit and proper and for further incidental reliefs.

2. **Veera Homespace Pvt. Ltd.** has filed a cross petition against **The B.E.S.T. Workers Union** and **Shree Sukharta Developers Pvt. Ltd.**, being Commercial Arbitration Petition (Lodging) No. 1806 of 2023, under Section 9 of the Arbitration and Conciliation Act, 1996, seeking injunction against **B.E.S.T. Workers Union** to deposit with this court a

sum of Rs.4,79,60,000/-; to stay the effect, implementation and operation of Termination of Agreement for Development dated 11-09-2009 as well as Supplemental Agreement dated 19-12-2016 and Power of Attorney dated 12-06-2018; and to restrain **B.E.S.T. Workers Union** from in any manner obstructing, interfering and/or impeding rights of **Veera Homespace Pvt. Ltd.** and its possession of the Subject Property under registered agreements and further from appointing any new developer / contractor and/or entering into any negotiations, discussions and / or agreement in respect of the Subject Property.

3. The Arbitration Clause which is the basis for filing both the Petitions reads thus:

“33. In case differences, dispute or question arises between the parties hereto or their respective representatives in respect of construction, interpretation of these presents or concerning anything herein contained or arising out of these presents or as to the right liabilities or duties of the parties hereto, the same shall be referred to arbitration of three persons each party shall appoint one Arbitrator and the two Arbitrators appointed as aforesaid shall appoint a third Arbitrator and provisions of Arbitration and Conciliation Act, 1996 shall apply to such references.”

4. **Shree Sukharta Developers Pvt. Ltd.** has to agreed to abide itself by the terms of Agreement for Development dated 11-09-2009 as well as Supplemental Agreement dated 19-12-2016 and by acts of **Veera Homespace Pvt. Ltd.**, and further agree for appointment of

Arbitrator herein and to join the reference and submit to jurisdiction of Arbitral Tribunal.

5. All three parties parties are in consensus over taking recourse to the arbitration clause and have consented to the appointment of Advocate Gautam Ankhad as an Arbitrator, with an understanding that the two Petitions, being Commercial Arbitration Petition No. 450 and Commercial Arbitration Petition (Lodging) No. 1806 of 2023, filed under Section 9 of the Arbitration and Conciliation Act, 1996, shall be converted into applications under Section 17 of the Act, to be heard and decided by the learned Arbitrator within a period of six weeks.

6. Since a consensus is arrived at between the parties, I pass the following order:

ORDER

- (A) By consent of the parties, Advocate Gautam Ankhad is appointed as a sole Arbitrator to decide upon the disputes and differences between the parties arising out of, or in relation to, or in connection with the Agreement for Development dated 11-09-2009 as well as Supplemental Agreement dated 19-12-2016. Earlier order dated 12-12-2022 & 10-01-2023 passed by this Court shall continue pending the aforesaid applications and shall be subject to further orders as may be passed by the Learned Arbitrator.
- (B) The parties shall intimate Advocate Gautam Ankhad of his appointment as a sole Arbitrator to resolve the dispute between

them.

- (C) The learned Arbitrator, within a period of 15 days before entering the Arbitration Reference, shall forward a statement of disclosure as per the requirement of Section 11(8) *read with* Section 12(1) of the Arbitration and Conciliation Act, 1996, to the Prothonotary and Senior Master of this Court, to be placed on record, with a copy to be forwarded to both the parties.
- (D) The parties shall appear before the Arbitrator within a period of two weeks from today and the learned Arbitrator shall fix up a first date of hearing in the week commencing 30-01-2023. The Arbitral Tribunal shall give all further directions with reference to the Arbitration and also as to how it is to proceed.
- (E) Contact and communication particulars shall be provided by both sides to the learned Sole Arbitrator within a period of one week from today. This information shall include a valid and functional E-mail address as well as mobile numbers of the parties, participating in the process as well as of the Advocates.
- (F) **The B.E.S.T. Workers Union** is at liberty to amend the converted Section 17 Application before the Arbitral Tribunal by adding **Shree Sukharta Developers Pvt. Ltd.** as Party Respondent No.2 and by amending the reliefs to be claimed against it.
- (G) The rights and contentions of all parties are expressly kept open.
- (H) Parties agree that the arbitral costs and fees of the Arbitrator

shall be decided by the Tribunal.

7. In the wake of the above order, the two Arbitration Petitions are worked out and disposed off. There shall be no order as to costs.

[BHARATI DANGRE, J]