



**IN THE JUDICATURE OF HIGH COURT AT BOMBAY
BENCH AT AURANGABAD**

924 ARBITRATION APPLICATION NO. 4 OF 2022

M/s Watergrace Products Thr Its Proprietor Chetan Bora

VERSUS

The Dhule Municipal Corporation Thr The Dhule Municipal Commissioner

Advocate for Applicant : Ms. Nikita K. Dharmshi h/f M/s C.k. Legal

Advocate for Respondent : Mr. Amol S. Sawant

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CORAM : ARUN R. PEDNEKER, J.

Dated : August 22, 2024

PER COURT :-

1. The present application is filed under Section 11(6) of the Arbitration and Conciliation Act, 1996, for the appointment of an arbitrator. Learned counsel for the applicant submits that Clause 8.2 of the agreement between the parties, dated 07/03/2019, provides for arbitration in the event of a dispute.

2. Clause 8.2 of the agreement dated 07/03/2019 reads as follows :-

"8.2 Arbitration :

(a) Procedure -

Subject to the provisions of Article 8.1, any Dispute which is not resolved amicably shall be finally settled by binding arbitration under the Arbitration and Conciliation Act. The arbitration shall be by sole Arbitrator, by mutual agreement in case of consensus on the name of the Arbitrator, the Arbitrator appointed as per the Provisions of Arbitration and Conciliation Act will conduct the Arbitration.

(b) Place of Arbitration -

The place of arbitration shall ordinarily be Dhule.

(c) English Language -

The request for arbitration, the answer to the request, the

terms of reference, any written submissions, any orders and awards shall be in English and, if oral hearings take place, English shall be the language to be used in the hearings.

(d) Enforcement of Award -

the Parties agree that the decision or award resulting from arbitration shall be final and binding upon the parties and shall be enforceable in accordance with the provisions of the Arbitration Act subject to the rights of the aggrieved parties to secure relief from any higher forum."

3. The parties are *ad idem* and have agreed to appoint former District Judge Mr. Bhalchandra Daulatrao Kapadnis as the arbitrator for the disputes that have arisen between them. Accordingly, the arbitration application is disposed of with the following order :

a] **Appointment of Arbitrator :-**

Mr. Bhalchandra Daulatrao Kapadnis, Former District Judge, is appointed to act as sole arbitrator to adjudicate upon the disputes between the parties.

b] **Communication to Arbitrator of this order :**

(i) A copy of this order will be communicated to the learned Sole Arbitrator by the Advocates for the applicant within one week from the date this order is uploaded.

(ii) In addition, within one week of this order being uploaded, the Registry will forward an ordinary copy of this order to the learned Sole Arbitrator at the following post and email addresses :

Arbitrator : Mr. Bhalchandra Daulatrao Kapadnis
Address : Flat No.6, Swami Apartment Sagar
Village Nishant Guarden Road, Behind
Godavari Agro, Dhattrak Fata, Nashik.

Phone No. : 9371002119, 9673677582
Email : bdkapadnis@gmail.com

c] **Disclosure :**

The learned Sole Arbitrator is requested to forward the necessary statement of disclosure under Section 11 (8) read with Section 12 (1) of the Arbitration Act to the Registrar of this Court, referencing this arbitration application, as soon as possible, and in any case sufficiently before entering upon the reference to arbitration. That statement will be retained by the Registrar on the file of this application. Copies will be given to both sides.

d] **Appearance before the Arbitrator :**

Parties will appear before the learned Sole Arbitrator on such date and at such place as the learned Sole Arbitrator nominates and the parties to obtain appropriate directions from the arbitrator in regard to fixing a schedule for completing pleadings, etc.

e] **Contact / communication information of the parties :**

Contact and communication particulars are to be provided by both sides to the learned Sole Arbitrator within one week of this order being uploaded. The information is to include a valid and functional email address.

f] **Section 16 application :**

The respondent is at liberty to raise all questions of jurisdiction within the meaning of section 16 of the Arbitration Act. All contentions are left open.

g] **Interim Application/s :**

(i) Liberty to the parties to make an interim application or interim applications including (but not limited to) interim applications under Section 17 of the Arbitration & Conciliation Act, 1996 before the learned Sole Arbitrator.

(ii) Any such application will be decided in such manner and within such time as the learned Sole Arbitrator deems fit.

(h) **Fees :-**

The arbitral tribunal's fees shall be governed by the Bombay High Court (Fee Payable to Arbitrators) Rules, 2018.

(i) The Arbitral Tribunal to decide the venue of the Arbitration after consultation with the parties and considering the scope of the Section 20 of the Arbitration Act.

4. The application is disposed of in these terms. No costs.

(ARUN R. PEDNEKER, J.)

vj gawade/-.