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

915 ARBITRATION APPLICATION NO. 15 OF 2023

MS MARIKAR ENGINEERS PVT LIMITED

....Applicant

VERSUS

SKODA AUTO VOLKSWAGEN INDIA PVT. LTD.

.....Respondent

Mr. Girish K. Thigle Naik, Advocate for the applicant

Mr. Rahul R. Totale, Advocate for the respondent

CORAM : ARUN R. PEDNEKER, J.

DATE : 27th FEBRUARY, 2024

P. C.

1. Dispute have arisen between the parties out of dealership agreement executed between the parties on 21-12-2010. Learned counsel for the parties agree that the disputes between the parties can be referred to a sole Arbitrator.

2. Mr. S. C. Malte, was appointed an Arbitrator. But during pendency of the arbitral proceeding Mr. S. C. Malte, passed away. As such, the application is filed before this court for substitution of Arbitrator.

3. Both parties agree that Justice Shri S. K. Shinde, former Judge of this court can be appointed as an Arbitrator to decide the disputes arising between them.

4. Accordingly, the arbitration application is disposed of with following order:-

(a) **Appointment of Arbitrator :**

Justice Shir S. K. Shinde, Former Judge of this court 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 of 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 postal and email addresses:-

**Arbitrator :- Hon'ble Shri Justice S. K. Shinde
Former Judge of this court.**

Address :- 1703/1704, Chitrlekha
Sane Guruji Nagar,
Mulund (East), Mumabai 400 081

Phone :- 9869056246

Email :- adv.sandeepshinde@yahoo.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 the 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 to obtain appropriate directions 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 the 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 contention are left open.

(g) **Interim Application/s:-**

(i) Liberty to the parties to make an interim application or interim application 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) **Sharing of costs and fees:-**

Parties agree that all arbitral costs and the fees of the arbitrator will be borne by the two sides in equal shares in the first instance.

(j) **Venue and seat of arbitration:-**

Seat of the arbitration would be governed by the provisions of the agreement executed between the parties.

[ARUN R. PEDNEKER, J.]