



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

22 ARBITRATION APPLICATION NO. 27 OF 2022

Ramdeobaba Charitable Society Akola Thr Its President Jatin Laxminarayan
Rathi

VERSUS

Municipal Council Kalamb Thr Its Chief Officer Kalamb And Another

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Advocate for Applicant : Mr. N.S. Jaju.

Advocate for Respondent 1 : Mr. B.R. Sontakke

Advocate for Respondent 2 : Mr. Ajit Kadethankar

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CORAM : ARUN R. PEDNEKER, J.

Dated : March 04, 2024

PER COURT :-

1] By way of this application, applicant seeks appointment of an Arbitrator under section 11 of the Arbitration and Conciliation Act, 1996 to resolve the dispute between the parties.

2] In terms of Clause 12 of the agreement dated 21.2.20218, the disputes between the parties are to be resolved. Clause 12 of the agreement is as under :-

"12) ARBITRATION :-

- a. Both the parties hereby specifically agrees, declare and covenant that if any dispute arises in respect of the tender and/or any work and/or of present agreement and/or the interpretation of the agreement and about the quality or in quantity of works, both the parties shall have rights to refer any type of such disputes to the arbitrator. The Arbitrator shall be the Technical Officer of the rank of Execute Engineer or above of the Nodal agency appointed by GoM for the implementation of this scheme i.e. Mhada and the decision of the arbitrator shall be binding to the parties to this agreement."

3] Disputes have arisen between the parties with respect to the

agreement dated 21.2.2018 and notice for appointment of arbitrator was issued by the applicant on 1.9.2022, which was served upon the respondents on 12.9.2022. The notice issued by the applicant for appoint of Arbitrator is not replied by the respondent. As such, the present application is filed for appointment of arbitrator.

4] In terms of the notice dated 1.9.2022 the dispute between the parties is referred in para 10 and 11 quoted below :-

"10) That as per the terms mentioned in the agreement, we have submitted the bill for the work done worth Rs.29,52,000/- on 25/06/2018 for first proposal, bill for the work done worth Rs.32,64,000/- on 05/03/2019 for Second proposal, bill for work done worth Rs.21,24,000/- on 04/01/2022 for third Proposal and bill for work done worth Rs.21,48,000/- on 13/04/2022 which ought to have been released by You immediately after submission of bill as mentioned in the agreement.

11) That against the aforesaid bill You have released only the part payment of Rs.27,00,000/- only. That we have repeatedly requested you to release the remaining amount of Rs.77,88,000/- since last 12 months vide our various previous communications. However, till date you have not released the said amount."

5] In terms of clause 12 of the agreement dated 21.2.2018, Executive Engineer of respondent No. 2 is appointed as arbitrator. I am informed that Mr. Nitin Shinde, at the moment, is Executive Engineer of respondent No. 2. Parties are referred to Mr. Nitin Shinde, Executive Engineer of respondent No. 2 to resolve dispute between the parties. Parties to appear before the Arbitrator on the date given by the Arbitrator. Respondent No. 2 to intimate this order to Arbitrator.

(ARUN R. PEDNEKER, J.)