



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

913 ARBITRATION APPLICATION NO. 25 OF 2023

MS MACHINDRA OVERSEAS PRIVATE LTD THROUGH ITS DIRECTOR
SMT PRAJAKTA SURESH DHAS

VERSUS

BHANGE ORGANICE CHEMICAL PRIVATE LTD THROUGH ITS DIRECTOR
SMITA SANJAY BHANGE

...

Advocate for Applicant : Mr. Ajinkya Kale h/f Talekar And Associates

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**WITH
ARBITRATION APPLICATION NO. 28 OF 2023**

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CORAM : ARUN R. PEDNEKER, J.

Dated : March 01, 2024

PER COURT :-

1. The applicant and respondent entered into an agreement dated 29/07/2021 for their business development. By the said agreement it was decided that the applicant would procure the right quality Ethanol and Acetic Acid whereas the respondent would process the Ethanol and Acetic Acid and produce the end product Ethyl Acetate which can be exported or sold in domestic markets.

2. As per Article 18.1 of the agreement, if any dispute or difference arises between the parties, the same shall be resolved by the sole Arbitrator appointed with the mutual consent of the parties. The dispute arose between the parties on account of breach of contractual obligation/agreement, therefore, the respondent issued a notice dated 22/04/2023 to the applicant for appointment of one Rushikesh R. Chavan, Advocate, as sole arbitrator. The applicant

replied to the said notice on 19/05/2023 and also issued notice subjecting the dispute to arbitration by proposing Mr. G. K. Dravid, Advocate as the sole Arbitrator for dispute resolution, to whom the applicant is not agreeable. Since there is no agreement on the appointment of the arbitrator, present application is filed.

3. Clause 18.1 of the agreement dated 29/07/2021 reads as under :-

"18.1 - If any dispute and/or difference arise between the parties hereto, during the subsistence of this Agreement or thereafter, in connection with the validity, interpretation, implementation or alleged material breach of any provision of this Agreement or regarding any question, the Parties hereto shall endeavour to settle such dispute amicably. In case of failure to resolve the dispute and/or difference amicably, the dispute and/or difference shall be referred to Arbitration to the sole Arbitrator appointed in mutual consent of both the parties, in accordance with and subject to the provisions of Arbitration and Conciliation Act, 1996 or any amendment thereto. The cost of Arbitration shall be borne by both the parties equally."

4. The parties are ad idem and have agreed to appoint Mr. Justice Sunil P. Deshmukh for Arbitration of the disputes between the

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

a] **Appointment of Arbitrator :-**

Mr. Justice Sunil P. Deshmukh, 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 being 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. Justice Sunil P. Deshmukh
Address	:	"Neel-Prabha", Next to Hotel Green Olive, Near Baba Petrol Pump, Station Road, Bhagya Nagar, Aurangabad 431 001.
Phone No.	:	9545028282
Email	:	sunilpdeshmukh@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] 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.)

vj gawade/-.