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IN THE HIGH COURT OF BOMBAY AT GOA

**APPLICATION FOR APPOINTMENT OF ARBITRATOR
NO. 14 OF 2024)**

YUNCA MACHINERY
MANUFACTURING PVT. LTD.
REP. THR. ITS AUTH.
REPRESENTATIVE DATTARAM
SAWANT ... APPLICANT
VERSUS
VERNADA INDUSTRIES PVT.
LTD. ... RESPONDENT

Mr. J. Ramaiya, Advocate for the Applicant.

Mr. A. Kakodkar, Advocate for Respondent.

CORAM: BHARAT P. DESHPANDE, J.

DATED: 4th October 2024

P.C.

1. Heard Mr Ramaiya, learned counsel for the applicant and
Mr A. Kakodkar, learned counsel for the respondent.

2. This is an application for appointing fresh arbitrator in place
of earlier arbitrator who was appointed with consent of the
parties.

3. The applicant has suggested name of arbitrator in the prayer clause itself. However, learned counsel for the respondent would submit that it would be putting financial burden on the respondent since he has already paid fees of earlier arbitrator and that arbitrator who is proposed is having his office at Margao.

4. Mr Kakodkar submits that an arbitrator conducting matters from Panaji would be preferable as well as affordable to the respondent.

5. Mr Ramaiya appearing for the applicant submits that arbitrator whose name is proposed in the present application is also having his office at Panaji and he is conducting the matter at Panaji, apart from conducting the matters from Margao. Record would go to show that parties appointed the arbitrator who is an Advocate of this Court. Application is filed by the applicant suggesting the name of the retired High Court Judge.

6. Mr Kakodkar submit that it would be feasible to appoint the Advocate who is impaneled of this Court for conducting the arbitration. Record would go to show that substantial progress was achieved by earlier arbitrator during the proceedings and parties also agree that matter should go further from the stage where

earlier arbitrator has left instead of starting it afresh. Accordingly, matter could be taken further from the stage where the arbitrator had left.

7. Since earlier arbitrator was appointed by parties who is an Advocate, it would be desirable to appoint an Advocate arbitrator only operating from Panaji so that matter could be decided as earlier as possible. Proceedings commenced before earlier arbitrator in July 2022. Delay in the arbitration proceeding is because of unstamped agreement which is impounded.

8. Considering the above facts and circumstances, the following order is passed:-

- a. The Application is allowed.
- b. Mr Jayant P. Mulgaonkar, learned Senior Advocate of this Court is appointed as the sole Arbitrator to decide the dispute between the parties.
- c. A copy of this order be communicated to the learned sole Arbitrator by the Advocate for the Applicant, within a period of one week from today.
- d. The learned sole Arbitrator is requested to forward his Statement of Disclosure under

Section 11 (8) read with Section 12 (1) of the Arbitration Act to the Advocate for the Applicant so as to enable him to file the same in the Registry of this Court. The Registry of this Court shall retain the said Statement on the file of this Application and a copy of the same shall be furnished by the Advocate for the Applicant to the Advocate for the Respondent.

- e. The parties shall appear before the learned sole Arbitrator on such date and at such place as he nominates to obtain appropriate directions with regard to fixing a schedule for completing pleadings etc. The Arbitral Tribunal shall give all further directions with reference to the arbitration and also as to how it is to proceed.
- f. 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 email address as well as the mobile numbers of the respective Advocates.
- g. The parties have agreed that the sole Arbitrator shall charge his fees as per the 4th Schedule of the Arbitration and Conciliation Act, 1996 read with the Bombay High Court (Fee Payable to Arbitrators) Rules, 2018. The parties have further agreed that all the

arbitral costs and the fees of the Arbitrator will be borne by the Applicant and the Respondents equally and will be subject to the final Award that may be passed by the Tribunal.

- h. The parties immediately consent to a further extension of six months to complete the arbitration, should the learned sole Arbitrator find it necessary.

corrections carried out as
per order dated
20.11.2024.
sd/-

- i. ~~The parties have agreed that the seat of the arbitration will be at Panaji, Goa.~~ However, the venue of the Arbitration shall be decided by the sole Arbitrator taking into consideration convenience of the parties as well as his convenience.

9. The Application stands disposed of in the aforesaid terms.

BHARAT P. DESHPANDE, J.