

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
ARBITRATION PETITION NO.47 OF 2022

Towell Engineering International LLP .. Petitioner

Versus

Siddhivinayak Industries .. Respondent

...

Mr. Amey Sawant i/b Nevase & Chandak for the Petitioner.

CORAM: BHARATI DANGRE, J.

DATED : 19th APRIL, 2024

P.C:-

1 By order dated 9/11/2023, this Court had permitted substituted service upon the respondent and accordingly an affidavit of service is filed before this Court, affirmed in the month January 2024, indicating that the notice of the petition is circulated by publication in two widely circulated papers i.e. Financial Express and Loksatta. The relevant extract of the public notice from the two news papers is also filed along with the affidavit.

Despite being served through the substituted service, the respondent has failed to mark appearance.

2 I have heard the learned counsel for the petitioner, who seek appointment of a sole Arbitrator to decide the dispute and differences arising out of the Agreement for Contract Work

dated 24/01/2019 executed between the parties, which contain a clause in form of clause no.39, describing that any disputes arising out of or in connection with the contract, shall be settled between the parties by mutual discussions and those disputes, which cannot be settled through mutual discussions shall be referred to a sole Arbitrator, appointed by the Company. The place of arbitration is set out to be in Pune and similarly the Courts of Pune are agreed to have jurisdiction in respect of any matter referred for arbitration.

3 Since the disputes arose between the parties as the Petitioner supplied to the respondent 91.242 Metric Tons of raw material along with the drawing required for carrying out the fabrication work, but the work was not carried out and the fabricated steel structure was not supplied within the stipulated timeline, it was alleged, that the respondent had abandoned the fabrication work and on 31.479 Metric Tons raw material is lying with it.

In the wake of the aforesaid dispute, arbitration was invoked on 27/09/2021 by the Petitioner, requesting for the consent, to refer the dispute to the Arbitrator.

Admittedly the respondent failed to respond and even upon the proceedings being instituted before this Court, seeking appointment of the sole Arbitrator in the wake of the existing arbitration clause, the respondent had failed to mark the appearance.

4 On being satisfied that a valid arbitration clause exist between the parties, and the same has been invoked by the applicant by a notice issued under Section 21 of the Arbitration and Conciliation Act, I deem it appropriate to appoint the arbitrator to resolve the disputes that have arisen between the parties out of the Contract Work Agreement.

 In the wake of the above, Mr. Vishwas B Choudhari, (Retired District Judge), is appointed as Sole Arbitrator. The details of the Arbitrator are as below:

Name :-Mr. Vishwas B Choudhari, (Retired District Judge),

Address :-20, Sneh Park, near Dhankude Vasti, Baner, Pun-411045.

Mob No :-9881132533

 The Arbitrator shall, within a period of 15 days before entering the arbitration reference forward a statement of disclosure as contemplated under Section 12 of the Arbitration and Conciliation Act, 1996, to the Registrar Judicial I of this Court to be placed on record.

 The Arbitrator, shall after entering the reference fix the date of first hearing and issue further directions as are necessary.

 The Sole Arbitrator shall be entitled for the fees as per Bombay High Court (Fee Payable to Arbitrators) Rules, 2018 and the arbitral costs and fees of the Arbitrator shall be borne by the parties in equal portion and shall be subject to the final Award that may be passed by the Tribunal.

All rights and contentions of the parties are kept open.

(SMT. BHARATI DANGRE, J.)