

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
ARBITRATION PETITION No. 176 OF 2023

Rambhau Bhagwant Mathwad .. Petitioner
Versus
SVB Realty .. Respondent
...

Mr. P.B. Gujar for the petitioner.
Ms. Manjiri Parasnis for the respondent.

CORAM: BHARATI DANGRE, J.
DATED : 4th JANUARY 2024

P.C:-

1 Clause no.14 in the Joint Venture Agreement on Net Revenue Sharing/Principal to Principal basis came to be executed on 31/10/2015.

The said clause contemplated that if any dispute arises between the parties due to non performance of any obligation of the other party, then the dispute shall be settled amicably, but if it is not settled within a period of one month, then it shall be referred to arbitration as per the provisions of the Arbitration and Conciliation Act by appointing a Sole Arbitrator to be mutually decided by both the parties and thereupon, parties shall render co-operation to the Arbitrator.

2 On hearing the learned counsel for the petitioner and the learned counsel for the respondent, it is evident that there is no dispute about the existence of the arbitration clause in the agreement signed by them and there is also no dispute that the arbitration has been invoked by the Arbitrator. However, since the parties could not agree mutually to the name of the Arbitrator, the present petition is filed seeking appointment of Arbitrator for referring the disputes that have arisen out of the agreement dated 31/10/2015.

3 Since the existence of the arbitration clause in the agreement is not in dispute, I deem it appropriate to appoint Justice Shalini Phansalkar Joshi (Retired Judge of the Bombay High Court) as the Sole Arbitrator to adjudicate the disputes and differences that have arisen between the petitioner and the respondent.

(i) The Arbitrator shall, within a period of 15 days before entering the arbitration reference forward a statement of disclosure as contemplated u/s.11(8) r/w Section 12 of the Arbitration and Conciliation Act, 1996, to the Prothonotary and Senior Master of this Court to be placed on record.

(ii) The Arbitrator, shall after entering the reference fix the date of first hearing in the week commencing from 15/1/2024 and issue further directions as are necessary.

(iii) 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.

(iv) All rights and contentions of the parties are kept open.

(SMT. BHARATI DANGRE, J.)