

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

ARBITRATION PETITION NO.24 OF 2024

Khuspe & Patil Steels Pvt. Ltd.

... Petitioner

V/s.

Hetvi Infra Project Pvt. Ltd. & Anr.

... Respondents

Adv. D. A. Bhalerao for the Petitioner.

CORAM : ARIF S. DOCTOR, J.

DATE : 18TH NOVEMBER 2024

P.C. :

1. The captioned Arbitration Petition has been filed under Section 11 of the Arbitration & Conciliation Act, 1996 for the appointment of an Arbitrator in respect of the disputes and differences between the parties arising out of a Tripartite Agreement dated 24th March 2014.

2. Learned Counsel appearing on behalf of the Petitioner has today tendered an Affidavit of Service, which shows that both the Respondents are duly served. Learned Counsel then invites my attention to the said Agreement and points out that the same contains an arbitration clause. He then also invites

my attention to the two notices invoking arbitration, both dated 9th February 2022, addressed to each of the Respondents respectively. He places reliance upon the tracking report to show that though the said notices have been duly served, none has appeared.

3. Hence, having regard to the fact that I am *prima facie* satisfied that there exists an Agreement between the parties, which contains an arbitration clause as also the fact that the same has been duly invoked by the Petitioner on the Respondents, I am inclined to allow the Petition. Thus, I appoint Mr. Sadashiv S. Deshmukh, Retired District Judge to act as an Arbitrator on the following terms :-

TERMS OF APPOINTMENT

- (a) Appointment of Arbitrator:** Mr. Sadashiv S. Deshmukh, Retired District Judge is hereby nominated to act as a Sole Arbitrator to decide the disputes and differences 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 Petitioner within one week from the date this order is uploaded.

- (ii) The Advocates for the Petitioner will forward an ordinary copy of this order to the learned Sole Arbitrator at the following postal and email addresses:

Arbitrator **Mr. Sadashiv S. Deshmukh,**
Retired District Judge

Address 403, Jupiter, Building No.9,
(Gavanndbaugh), Pokharan
Road 2, Thane (W) 400 610.

Mobile 9820553525

- (c) **Disclosure:** The learned Sole Arbitrator is requested to forward, in hard copy or soft copy (or both), the necessary statement of disclosure under Section 11(8) read with Section 12(1) of the Arbitration Act to Advocates for the parties as soon as possible. The Advocates for the Petitioner will arrange to file the original statement in the Registry. If the statement is forwarded in soft copy, a print out of the covering email is also to be filed in the registry.
- (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 to obtain appropriate directions 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. The information is to include functional email addresses and mobile numbers.
- (f) **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. Any such application will be decided in such manner and within such time as the learned Sole Arbitrator deems fit.
 - (ii) The learned Sole Arbitrator is requested to dispose of all interim applications at the earliest.
- (g) **Fees:** The arbitral tribunal's fees shall be governed by the Bombay High Court (Fee Payable to Arbitrators) Rules, 2018.
- (h) **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.
- (i) **Consent to an extension if thought necessary.** Parties immediately consent to a further extension of up to six months to complete the arbitration should the learned Sole Arbitrator find it necessary.
- (j) **Venue and seat of arbitration:** Parties agree that the venue and seat of the arbitration will be in Thane.

4. The Petition is disposed of in these terms. No costs.

(ARIF S. DOCTOR, J.)