

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
ARBITRATION PETITION NO.88 OF 2024

Omkar Buildcon

... Petitioner

V/s.

Kasturi Co-operative Housing Society Ltd.

... Respondent

Mr. Rahul Motkari i/b Anand Dhongade for Petitioner.

Mr. M. A. Saiyed for Respondent.

CORAM : ARIF S. DOCTOR, J.

DATE : 11th DECEMBER 2024

P.C. :

1. The present Petition is filed under Section 11 of the Arbitration and Conciliation Act 1996 for appointment of an Arbitrator in respect of the disputes and differences that arisen between the parties out of a tender document and LOI issued pursuant thereto.

2. After arguing the matter at some length, Learned Counsel for the Respondent very fairly submitted that the Respondent did not have any objection for appointment of an Arbitrator subject however to keeping open all rights and contentions of the Respondent including proving the aspect of maintainability.

This order is modified/corrected as per order dated 13th December 2024.

Ajit

3. In view thereof, I accordingly appoint Shri. Sadashiv Deshmukh, retired District Judge to act as Sole Arbitrator in respect of the disputes and differences that have arisen between the parties on the following terms:

TERMS OF APPOINTMENT

- (a) **Appointment of Arbitrator:** Shri. Sadashiv 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/s **Shri. Sadashiv Deshmukh**

Address 403, Jupiter, Building No.9,
(Gavanndbaugh), Pokharan
Road 2, Thane (w) 400610

Mobile 9820553525

Email

ssadashiv07@gmail.com

- (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) **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. 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.

(h) **Fees:** Since the appointment of the Sole Arbitrator is by consent of the parties, the arbitral tribunal's fees shall not be governed by the Bombay High Court (Fee Payable to Arbitrators) Rules, 2018.

(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 **Vashi, Navi Mumbai**.

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

5. It is pointed out that the fees shall initially be borne by the Petitioner since that is as per the terms of the tender. This may be subsequently ruled upon by the Tribunal.

(ARIF S. DOCTOR, J.)