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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
ARBITRATION PETITION NO. 93 OF 2024

Nishant Prakashchandra Bhutada

...Petitioner

Vs.

Hemant Ramesh Chopda

...Respondent

Mr. Mayank Bagla i/by Jainish Jain for the Petitioner.

Mr. Sandeep D. Shinde for the Respondent.

CORAM : ARIF S. DOCTOR, J.

DATE : 2nd JULY, 2024

P.C.:-

1. This is a Petition for substitution of the learned Arbitrator, who had been appointed by this Court vide an order dated 20th December, 2022.

2. In view of the fact that the learned Arbitrator then appointed had expressed his inability to take up the reference, on the previous occasion, I had granted time for parties to inform the Court a name, if any, of the Arbitrator by consent.

3. Today, Mr. Shinde, Learned Counsel appearing on behalf of the Respondent submits that the Respondent is not opposing appointment of the Arbitrator but leaves the name to this Court. Learned Counsel for the Petitioner does not have any objection.

4. In view thereof, I hereby appoint Mr. Justice Amjad A. Sayed (former Chief Justice of Himachal Pradesh) to act as Sole Arbitrator on the following terms.

TERMS OF APPOINTMENT

(a) Appointment of Arbitrator: Mr. Justice Amjad A. Sayed (former Chief Justice of Himachal Pradesh) 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 Applicant within one week from the date this order is uploaded.
- (ii) The Advocates for the Applicant will forward an ordinary copy of this order to the learned Sole Arbitrator at the following postal and email addresses:

Arbitrator/s **Mr. Justice Amjad A. Sayed**
(former Chief Justice of
Himachal Pradesh)

Address 4, American view, Bhulabhai
Desai Road, Omer Park,
Mumbai 400026.

Mobile 9820071240

Email sayamjad@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 Applicant 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:** The arbitral tribunal's fees shall be governed by the Bombay High Court (Fee Payable to Arbitrators) Rules, 2018.
 - (i) **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.
 - (j) **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.
 - (k) **Venue and seat of arbitration.** Parties agree that the venue and seat of the arbitration will be in Mumbai.
5. The Petition is disposed of in these terms. No costs.
6. Learned Counsel for the Respondent undertakes to file his Vakalatnama within a period of one week from today.
7. It is needless to state that proceedings shall continue from the stage on which they are presently at.

(ARIF S. DOCTOR, J.)