

## ARBITRATION PETITION NO. 115 OF 2024

...Petitioner

**Vs.**

## ...Respondents

Mr. Girish Rao for the Respondents.

**CORAM : ARIF S. DOCTOR, J.**

**DATE : 4TH SEPTEMBER, 2024**

**P.C.:-**

1. This is a Petition filed under Section 11 of the Arbitration and Conciliation Act, 1996 for appointment of an Arbitrator in respect of disputes and differences between the parties that have arisen out of a Development Agreement dated 27<sup>th</sup> December, 2010 entered into between the Petitioners and the Respondent.

2. Learned Counsel for the Respondents submits that Respondent No.1 would have no objection to the appointment of an Arbitrator, however, the arbitration agreement is only between Respondent No.1 and Petitioners and hence the arbitration proceedings also had to be between these parties.

Respondent Nos.2 to 8 are not parties to the agreement and thus they cannot be made parties to arbitration proceedings.

3. Learned Counsel appearing on behalf of the Petitioner on instructions submits that he is willing to drop Respondent Nos.2 to 8 from the arbitration proceedings.

4. Thus, basis the consent given by the Petitioner, the Petition is allowed in terms of prayer clause (a) which reads thus:-

*“a. The arbitrator suggested by the Petitioner, **Shri. Vikas Bambarde** (Hon'ble Retired Judge, Thane District and Session Court), Thane having office at Kopri Bazar, Thane (East) be appointed as the sole arbitrator to adjudicate the disputes between the parties.”*

5. I appoint Mr. Vilas Bambarde, retired Principal District and Sessions Judge, Thane as the Sole Arbitrator to adjudicate the disputes between the parties.

#### **TERMS OF APPOINTMENT**

**(a) Appointment of Arbitrator:** Mr. Vilas Vijay Bambarde 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**     **Mr. Vilas Vijay Bambarde**

*Address*            2306, Wing 29 Lodha Amara,  
Kolshet, Thane – 400 607.

*Mobile*             9421725466

*Email*                vilasbambarde63@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:** 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 Thane.

6. It is clarified that the arbitration proceedings shall be between the Petitioner and Respondent No.1 in respect of the disputes and differences that

have arisen between the parties out of Development Agreement.

7. Petition is accordingly disposed of.

**(ARIF S. DOCTOR, J.)**