

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
COMMERCIAL ARBITRATION PETITION NO. 37 OF 2024

M/s Deva Drill Tech India Ltd.

...Petitioner

Vs.

New India Assurance Co. Ltd.

...Respondent

Adv. Animesh Sinha (through VC) a/w Ishita Pandey, Shubham Hundia and Sandesh Panchal i/by Sriraj Menon for the Petitioner.

Adv. Madhavi Nalluri a/w Neha Patil i/by Madhavi Nalluri for the Respondent.

CORAM : ARIF S. DOCTOR, J.

DATE : 25TH NOVEMBER, 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 the disputes and differences between the parties arising out of Insurance Policy dated 5th May, 2021.

2. An Affidavit-in-Reply has been filed opposing the Petition. It is essentially the case of the Respondent (Insurance Company) that there exists no dispute since the insurer has signed discharge voucher and a letter of full and final settlement dated 25th May, 2023.

3. After the well settled legal position was brought to the notice of the Learned Counsel for the Respondent-firm i.e. that in an application under Section

11(6) for appointment of an Arbitrator, the Court is required to consider the judgment of the Hon'ble Supreme Court in the case of ***SBI General Insurance Co. Ltd. Vs. Krish Spinning¹***, Learned Counsel very fairly submitted that this Court could appoint an Arbitrator keeping open all rights and contentions of the Respondent specifically qua the fact that there exist no dispute in light of the Petitioner having executed a discharge voucher and a letter of full and final settlement dated 25th May, 2023.

4. Keeping these issues specifically open, I deem it fit to appoint Smt. Justice Anuja Prabhudessai, Former Judge of this Court to act as Sole Arbitrator in respect of the disputes and differences between the parties on the following terms:-

TERMS OF APPOINTMENT

- (a) **Appointment of Arbitrator:** Smt. Justice Anuja Prabhudessai, Former Judge of this Court 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:

¹ 2024 SCC OnLine SC 1754

Arbitrator/s **Smt. Justice Anuja Prabhudessai, Former Judge of this Court.**

Address FF-1, 5th Floor, Meera's Pride Building, Old Chowgule College Road, Gogol Margao, Goa 403 601.

Mobile 9823855445

Email desaianuja@yahoo.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 Mumbai.

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

(ARIF S. DOCTOR, J.)