

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
COMMERCIAL ARBITRATION APPLICATION NO. 112 OF 2024

Dayal Devjibhai Patel

...Applicant

Vs.

Vinayak Developers

...Respondent

Mr. Paresh C. Mankad a/w Nihar P. Mankad i/by Pravin D. Kadam for the Applicant.

Ms. Michelle Almeida i/by C. K. Legal for the Respondent.

CORAM : ARIF S. DOCTOR, J.

DATE : 4TH OCTOBER, 2024

P.C.:-

1. This is an Application under Section 11 of the Arbitration and Conciliation Act, 1996. The matter was kept today to enable Learned Counsel for the Respondent to take instructions as to whether her clients was willing to consent to appointment of an Arbitrator.

2. Ms. Almeida today has reported that her client is agreeable to the appointment of an Arbitrator. Both parties have suggested the names of the proposed Arbitrator, however, since there is no consent on the names suggested, Learned Counsel for the parties left the name of the Arbitrator to the Court.

3. I therefore appoint Mr. Cyrus E. Bharucha, Counsel of this Court to act as Sole Arbitrator in respect of the disputes and differences that have arisen between the parties.

TERMS OF APPOINTMENT

(a) **Appointment of Arbitrator:** Mr. Cyrus E. Bharucha 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. Cyrus E. Bharucha

Address 201, 2nd Floor, Savla
Chambers, 40 Gawasji Patel
Street, Fort, Mumbai 400001.

Mobile 9820310983

Email cy.bharucha@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) **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 Mumbai.

4. Learned Counsel for the Respondent submits that her client shall also be filing a Counter Claim which shall also be therefore before Mr. Bharucha.

5. The Application is accordingly disposed of in the aforesaid terms.

(ARIF S. DOCTOR, J.)