

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
COMMERCIAL ARBITRATION APPLICATION NO. 159 OF 2024

Sheth Construction Co.

...Applicant

Vs.

Municipal Corporation of Greater Mumbai

...Respondent

Adv. Yohaana Shah i/by Negandhi Shah & Himayatullah for the Applicant.

Adv. G. O. Giri i/by Kamal Punjabi for the Respondent.

Mr. Preetam Satardekar, Assistant Engineer, Building Construction is present.

CORAM : ARIF S. DOCTOR, J.

DATE : 9TH OCTOBER, 2024

P.C.:-

1. This is an application under Section 11 of the Arbitration and Conciliation Act, 1996 for appointment of an Arbitrator. The disputes and differences between the parties arise out of a Tender issued by the Municipal Corporation of Greater Mumbai.

2. Today, Learned Counsel appearing on behalf of the Respondent submits that the tender in question contemplates the modality for settlement of disputes before the appointment of Arbitrator. He submits that this procedure is underway and therefore the application is premature.

3. Learned Counsel for the Applicant submits that this contention is red herring. He places reliance upon the settlement of disputes clause which requires the Respondent to arrive at a conclusion/decision within 90 days of submission of such dispute to the Municipal Commissioner who is to then from a standing committee. Learned Counsel submits that the Applicant had address a letter to the Municipal Commissioner on 29th November, 2023, however, no steps were taken by the Respondent to constitute the standing committee and it was thus that the Applicant was constrained to file the present Application on account of the Respondent's failure to adhere to the procedure set out in the tender.

4. Learned Counsel for the Respondent however seeks one last chance to take instructions requesting the matter be stood over for a short date since he submits there is possibility of the dispute being resolved by the standing committee.

5. Hence, stand over to 23rd October, 2024.

6. It is made clear that if any reply is filed, the same shall be considered and taken on record subject to payment of costs provided the reply is filed on or before 16th October, 2024.

(ARIF S. DOCTOR, J.)