

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS COMMERCIAL DIVISION**

COMM. ARBITRATION PETITION NO.261 OF 2024

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Deepa Tracy

... Petitioner

V/s.

Planet Marathi

... Respondent

Mr. Karl Tamboly a/w Ms. Chitra Rentala, Mr. Anuj Desai, Mr. Aduat Shukla,
Mr. Parikshith K. i/b. Trilegal for the Petitioner.

Mr. Sarosh Bharucha a/w Ms. Shivani Deshmukh i/b. M. Mulla Associates for
Respondent Nos.1 and 2.

Ms. Nadiya Sarguroh a/w Ms. Keerthi Kamath, Mr. Abishek Ganesan. i/b. M2M
Legal LLP for Respondent No.3.

CORAM : ARIF S. DOCTOR, J.

DATE : 30TH SEPTEMBER 2024

P.C. :

1. The matter is stood over today, since on the previous occasion none appeared on behalf of Respondent No.3.

2. Today Ms. Sarguroh appears on behalf of Respondent No.3 and submits that her client does not have any objection to submit the disputes and differences to Arbitration subject however to keeping all contentions and rights of Respondent No.3 open.

3. Hence, by consent of parties, I appoint Mr. Phiroze S. Colabawala, a practicing Advocate to act as a Sole Arbitrator to decide the disputes and differences which have arisen between the parties. The present Section 9 Petition shall be converted to an Application under Section 17 of the Arbitration Conciliation Act, 1996 and disposed of accordingly. Respondent No.3 shall also be at liberty to file an Application under Section 16 which Application shall be heard and disposed of by the Arbitrator, expeditiously.

4. **TERMS OF APPOINTMENT**

- (a) **Appointment of Arbitrator:** Mr. Phiroze S. Colabawala, practicing Advocate, 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. Phiroze S. Colabawala**

Address Adie Mansion, 2nd Floor, Next
to Super Cinema, M.Shaukatali
Road, Mumbai – 400007

Mobile 98211 68132

Email phiroze_c@hotmail.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 present Petition under Section 9 of the Arbitration Act will be treated, heard, and disposed of as an application under Section 17 of the Act. All affidavits filed in the Section 9 petition will be treated as affidavits filed in the Section 17 application. Liberty to apply to the learned Sole Arbitrator for leave to file further affidavits.
- (iii) 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 as per convenience of the Arbitrator and by consent of the parties.

5. The statement made on behalf of Respondent No.1 and 2 as recorded in

order dated 24th September, 2024 shall also equally apply to Respondent No.3. Learned counsel has also confirmed that the Respondents shall not alienate and create third party rights in respect to the assets set out in the disclosure. The Application under Section 17 is heard and disposed of. Order dated 24th September 2024 is therefore corrected accordingly.

6. Arbitration Petition stands disposed in the above terms.

(ARIF S. DOCTOR, J.)