

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
COMMERCIAL ARBITRATION PETITION NO. 385 OF 2024

Khan and Co. Infraprojects Private Limited & Anr. ...Petitioners

Vs.

Darvesh Properties Private Limited ...Respondent

WITH
ARBITRATION APPLICATION (L) NO. 18061 OF 2024

Darvesh Properties Private Limited & Anr. ...Applicants

Vs.

Khan and Co. Infraprojects Private Limited & Anr. ...Respondents

WITH
COMMERCIAL ARBITRATION PETITION (L) NO. 38303 OF 2022

Darvesh Properties Private Limited ...Petitioner

Vs.

Khan and Co. Infraprojects Private Limited & Ors. ...Respondents

WITH
COMMERCIAL ARBITRATION APPLICATION (L) NO.26946 OF 2024 (NOB)

Khan and Co. Infraprojects Private Limited & Anr. ...Applicants

Vs.

Darvesh Properties Private Limited ...Respondent

Mr. Anoshak Daver i/by Parag Shah, Zeeshan Syed and Shraddha Prajapati for
the Petitioners in CARBP/385/2024 and for the Applicants in
CARAPL/26946/2024.

This order is corrected pursuant to speaking to the minutes order dated 28th November, 2024.

Mr. Pritesh Burad a/w Samita Vaviya and Madhuri Gamre i/by Pritesh Burad Associates for the Petitioner in CARBPL/38303/2022 and for the Applicants in ARBAPL/18061/2024.

CORAM : ARIF S. DOCTOR, J.

DATE : 9TH OCTOBER, 2024

P.C.-

1. This order has been passed in Arbitration Application (L) No.18061 of 2024. There are also two Petitions filed under Section 9 which are on board. Parties have today agreed that the Petition under Section 11 can be disposed of by referring the disputes and differences that have arisen between the parties to the arbitration. Parties are agreeable that Mr. Justice M. S. Sanklecha, Former Judge of this Court be appointed as Sole Arbitrator. I therefore appoint Mr. Justice M. S. Sanklecha, Former Judge of this Court to act as Sole Arbitrator to decide the disputes and differences between the parties.

TERMS OF APPOINTMENT

- (a) Appointment of Arbitrator:** Mr. Justice M. S. Sanklecha, 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:**

This order is corrected pursuant to speaking to the minutes order dated 28th November, 2024.

- (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. Justice M. S. Sanklecha,**
Former Judge of this Court.

Address 311, Churchgate Chambers,
Thakersey Road, New Marine
Lines, Behind Aaykar Bhavan,
Mumbai – 400 020.

Mobile 9820065338

Email manojsanklecha@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 Petitioners 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 captioned Petitions under Section 9 of the Arbitration Act will be treated, heard, and disposed of as applications 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.
- (g) **Fees:** The arbitral tribunal's fees shall not 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.

2. The captioned Petitions and Applications are disposed of in these terms. No costs.

3. Since the order is by consent, both the captioned Petitions under Section 9 shall be converted and treated as Application under Section 17 which shall be heard and disposed of on their own merits by the Tribunal. In view of this order, the Commercial Arbitration Application (L) No.26946 of 2024, filed by the Respondent which is also under Section 11 is also disposed of.

4. The Tribunal is requested to dispose of the Section 17 application as expeditiously as possible subject to the pre-existing commitments of the Tribunal that may have on hand. The Tribunal shall also issue further directions for completion of pleadings.

(ARIF S. DOCTOR, J.)