



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
: NAGPUR BENCH : NAGPUR.

MISC. CIVIL APPLICATION (ARBI) NO. 263 OF 2024

FOOD INN RESTAURANT, NAGPUR

VERSUS

GENERAL MANAGER, CENTRAL RLY., MUMBAI AND ANOTHER

Office Notes, Office Memoranda of Coram,
appearances, Court's Orders or directions and
Registrar's order

Court's or Judge's Order

Mr. D. S. Lambat, Advocate for the applicant
Mr. A. J. Gilda, Advocate for non-applicant nos.1 and 2.

CORAM : G. A. SANAP, J.

DATE : NOVEMBER 14, 2024.

1. Heard Mr. D.S. Lambat, learned advocate for the applicant and Mr. A. J. Gilda, learned advocate for non-applicant nos.1 and 2.
2. This is an application for appointment of an Arbitrator for resolution of the dispute arose between the parties.
3. The contract/agreement between the parties is on record at 'Annexure-1'. As per this contract, the construction work of General Waiting Hall on Booking and Reservation Office of Eastern side (santra market side of Nagpur Railway Station) with mini refreshment unit for a period of 2 (two) years, was granted in favour of the applicant. The agreement provides a clause for resolution of dispute by way of arbitration. A mechanism with regard to the appointment of an Arbitrator has been provided in the agreement.

4. It is pointed out that in the recent judgment of the Constitution Bench of the Hon'ble Apex Court in ***Central Organisation for Railway Electrification .vs. SCI SPIC SMO MCML (JV) A Joint Venture Company***, reported at **2024 SCC Online SC 3219**, the Hon'ble Apex Court has held that the Arbitrator appointed for resolution of the dispute must be an independent person. The Hon'ble Apex Court has held that the earlier decisions in *TRF Ltd .vs. Energo Engineering Projects Ltd. [(2017) 7 SCR 409]* and *Perkins Eastman Architects DPC v. HSCC (India) Ltd. [(2019) 17 SCR 275]* lay down the correct legal position.
5. In view of this, an independent arbitrator has to be appointed for resolution of the dispute.
6. Accordingly, this Court proposes to appoint Shri A. S. Shivankar, Retired District and Sessions Judge, as Sole Arbitrator for resolution of the dispute between the parties.
7. The Registrar (Judicial) to seek disclosure as per Sections 11(8) and 12(1) of the Arbitration and Conciliation Act, 1996.
8. The Registry shall do the needful within three weeks.
9. Stand over after three weeks.

(G. A. SANAP, J.)