



IN THE HIGH COURT OF BOMBAY AT GOA APPLICATION FOR
APPOINTMENT OF ARBITRATOR NO. 1 OF 2025

KAYBEE CONSTRUCTION AND
ENGINEERS PVT. LTD.

a company incorporated under the
Companies Act, 1956 having its office
at 328, Bussa Industrial Estate,
Century Bazaar Lane, Prabhadevi,
Murnbai - 400 025, duly represented
by its authorized representative, Mr.

Karan Anil Kohli, Director

...PETITIONER

Versus

ZUARI INDUSTRIES LTD.

a company incorporated under the
Companies Act, 1956 having its
office at 5th Floor, Tower A, Global
Business Park, MG Road, Sector 26,
Gurugarn - 122 022, Haryana

... RESPONDENT

Mr. Clayton Anthony Fonseca, Advocate for the Petitioner

Mr. Yogesh Nadkarni with Ms. Simran Khadilkar and Mr. Nilesh
Nadkarni, Advocates for the Respondent.

CORAM: VALMIKI MENEZES, J.

DATED: 1st AUGUST, 2025.

ORAL ORDER :

1. The above Application is filed under Section 15(2) read with Section 11 of the Arbitration and Conciliation Act, 1996 (for short “the Arbitration Act”) seeking appointment of a substitute Arbitrator due to termination of mandate of Arbitrator on withdrawal from office in terms of Section 15(1)(a).
2. The Applicant had filed an application bearing number AAR/ 13/2023 before this Court for Appointment of an Arbitrator, to refer a dispute arising between the parties out of ‘Work Order dated 14.09.2016’, in accordance with the Arbitral Clause at Clause 23.1 of the Work Order. Vide order of this Court dated 04.01.2024, Shri. Justice N. A. Britto, retired Judge of the Bombay High Court, was appointed as the Sole Arbitrator.
3. Mr. Clayton Fonseca, learned Advocate for the Applicant states that the parties appeared before the Sole Arbitrator and have completed their pleadings. It is further stated that the Evidence of the Petitioner and its witnesses was completed; the evidence of the Respondent was also completed and the matter was at the stage for cross examination of the Respondent witness when the Sole Arbitrator withdrew from office due to personal reasons, and communicated vide letter dated 24.05.2025, sent vide email by which, the mandate of the Arbitrator stood terminated in terms of Section 15(1)(a) of the Arbitration Act, which now necessitates the Appointment of a Substitute Arbitrator as per Section 15(2).

4. Learned Advocate for the Respondent, on instructions, states that the Respondent consents to continue the arbitration from the last stage of the arbitral proceedings before previous Arbitrator.

5. In these circumstances, the following order is passed:

- (A) Mr. Bharat P. Deshpande, a Retired High Court Judge is appointed as the substitute Arbitrator to decide upon the disputes and differences between the Applicant and the Respondent arising out of and/or in connection with and/or in relation to the Work Order referred to in para 1 above. The parties agree that the arbitral proceedings shall continue from the stage last completed by the previous Arbitrator, within a period of 12 months which shall commence from the date of receipt of this order by the Arbitrator.
- (B) A copy of this order will be communicated to the learned Sole Arbitrator by the Advocate for the Applicant within a period of one week from today.
- (C) The learned Sole Arbitrator is requested to forward his Statement of Disclosure under Section 11 (8) read with Section 12 (1) of the Arbitration Act to the Advocate for the Applicant so as to enable him to file the same in the Registry of this Court. The Registry of this Court shall retain the said Statement on the file of this Application and a copy of the same shall be furnished by the Advocates for the Applicant to the Advocates for the Respondent.

- (D) The parties shall appear before the learned Sole Arbitrator on such date and at such place as he nominates to obtain appropriate directions with regard to fixing a schedule. The learned Sole Arbitrator shall give all further directions with reference to the arbitration and also as to how it is to proceed.
- (E) The parties agree and consent that the Arbitral proceedings shall continue and be concluded within twelve months from the date of receipt of this order by the Arbitrator and it is further agreed by the parties that the extension granted to the initial proceeding shall be deemed to be within the aforesaid time period.
- (F) Contact and communication particulars shall be provided by both sides to the learned Sole Arbitrator within a period of one week from today. This information shall include a valid and functional email address as well as the mobile numbers of the respective Advocates.
- (G) The parties have agreed that the seat of the arbitration will be in Goa, and the venue shall be as per the directions of the arbitrator. Needless to state that under section 15(3) of the Arbitration Act, the Arbitrator is always at liberty to repeat any hearings previously held.
6. The Application is disposed of in the aforesaid terms. There shall be no order as to costs.
7. This order will be digitally signed by the Private Secretary/Personal As-

sistant of this Court. All concerned will act on production by email of a digitally signed copy of this order.

VALMIKI MENEZES, J.