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IN THE HIGH COURT OF BOMBAY AT GOA

**APPLN. FOR APPOINTMENT OF ARBITRATOR
NO.22 OF 2024**

PRASHANT CHANDRAKANT
KANKONKAR AND ANR.

... Applicants.

Versus

SIMROSE ANTHONY
FERNANDES AND ANR.

... Respondents.

Mr K Krubeshwaran, Advocate for the Applicants.

Mr Tarshish Pereira, Advocate for the Respondents.

CORAM: VALMIKI MENEZES, J.

DATED: 5th March, 2025

P.C.:

1. The above Application is filed under Section 11 of the Arbitration and Conciliation Act, 1996 (for short “the Arbitration Act”) seeking the constitution of the Arbitral Tribunal to decide the disputes and differences arising out of the Agreement for Running Business dated 15.11.2022.
2. There is a valid arbitration clause between the parties as reflected in clause 38 of the Agreement, which reads thus:-

“38. JURISDICTION AND DISPUTE

In the event of any controversy, dispute or difference arising

out of or in connection with or in relation to any term of this Agreement, such dispute or difference shall be referred to a sole arbitrator appointed by the parties mutually. The place of arbitration shall be at South, Goa and the language of arbitration shall be English. The arbitration shall be in accordance with the Arbitration and Conciliation Act, 1996 or any statutory modification or re-enactment thereof. The award of the Arbitrator shall be final and binding on the Parties. The parties agree herein.”

3. In these circumstances, the following order is passed :-

- (A) Mr. Cleofato Almeida Coutinho, Senior Advocate, Margao, Goa is appointed as the Sole Arbitrator to decide upon the disputes and differences between the Applicant and the Respondent arising out of and in connection with and in relation to the Agreement for Running Business dated 15.11.2022.
- (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 for completing pleadings etc. The Arbitral Tribunal shall give all further directions with reference to the arbitration and also as to how it is to proceed.
- (E) 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.
- (F) The Sole Arbitrator shall charge his fees as per the 4th Schedule of the Arbitration and Conciliation Act, 1996 read with the Bombay High Court (Fee payable to Arbitrators) Rules, 2018. All the arbitral costs and the fees of the Arbitrator will be borne by the Applicant and the Respondent equally and will be subject to the final Award that may be passed by the Tribunal.
- (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.
4. The Application is disposed of in the aforesaid terms. There shall be no order as to costs.

VALMIKI MENEZES, J.