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**IN THE HIGH COURT OF BOMBAY AT GOA**

**APPLICATION FOR APPOINTMENT OF ARBITRATOR**

**NO.3 OF 2025**

SIR BIOTECH INDIA PRIVATE LIMITED,

Having its registered office at 6926,

Jaipuria Mills, Clock Tower, Subzi Mandi.

Delhi-100007 and

Local office at Plot No. N-50.

Verna Industrial Estate,

Verna, Salcete, Goa -403722

Represented by its Director vide

Board resolution dated 21.11.2024

Mr. PRAKASH G. RANADE,

son of Late Mr. Ganesh S. Ranade,

aged 60 years, Director,

Married, Indian National, resident of

Flat No. F-2. Wagnagar Housing Society,

Sao-Padro, Ribandar.

Panaji, Goa.

... PETITIONER

VERSUS

MANGLAM INFRA DEVELOPERS

6th floor, Apex Mall,

Lal Kothi, Tonk Road, Jaipur,

Rajasthan -302015

..RESPONDENT

Mr. Somnath Karpe, and Mr. Ujjal Banerjee with Ms. Samiksha Vaigankar, Mr. Anand Shirodkar and Mr. A. Volvoikar, Advocates for the Applicant.

Mr. Y.V. Nadkarni and Mr. Sanket Kamat, Advocates for the Respondent

***CORAM: VALMIKI MENEZES,J.***

***DATED: 4TH JULY, 2025.***

***P.C.:***

1. The above Application is filed under Section 11 of the Arbitration and Conciliation Act, 1996 (for short “the Arbitration Act”).
2. It is the contention of the Applicant that under an Agreement for Joint Development dated 18.08.2018 between the parties, clause 19 constitute the arbitral clause under which any disputes and differences between the parties would be required to be referred for adjudication by an Arbitrator.
3. The Petitioner, by notice dated 13.09.2024 had communicated its desire to appoint an Arbitrator for deciding the

disputes referred to therein which was opposed by the Respondent in its communication dated 02.12.2024. Since there was no consensus between the parties, either on the name of Arbitrator or whether the disputes were arbitrable, the present application has been filed before this Court.

4. The principle contention raised by the Respondent is that the arbitral clause contained in the Development Agreement dated 18.08.2018 would not operate between the parties since the parties have subsequently executed another Agreement for Sale dated 25.01.2021 which was in supersession of the earlier Agreement. It was further contended by the Respondent that since the second Agreement supersedes the Development Agreement of 18.08.2018 and does not contain any arbitral clause, the disputes could not be subjected to arbitration between the parties. These contentions have been specifically raised in paragraph Nos.4 and 5 in the affidavit dated 13.02.2025 filed by the Respondent.

5. These contentions have been vehemently opposed by the learned Advocate for the Petitioner who refers to the contents of clause 7 of the new Agreement dated 25.01.2021 to contend that all disputes under this Agreement were subject to the arbitral clause contained in the first Agreement.

6. Be that as it may, it is now well settled that the question as to whether there was an arbitral clause that covers the contract between the parties, itself would be a matter that the Arbitral

Tribunal could adjudicate upon. In other words, the Tribunal has all powers under Section 16 of the Act to adjudicated on its own jurisdiction.

7. Thus, all these contentions may be raised by the parties before the appointed Arbitrator.

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

(A) Mr. Bharat P. Deshpande, a Retired High Court Judge, is appointed as the Sole 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 Agreement for Joint Development dated 18.08.2018 and Agreement for Sale dated 25.01.2021.

(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.

9. The Application is disposed of in the aforesaid terms. There shall be no order as to costs.

10. This order will be digitally signed by the Private Secretary/Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

**VALMIKI MENEZES,J.**