

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
ARBITRATION APPEAL NO. 7 OF 2025
ALONGWITH
COMM. ARBITRATION PETITION NO. 4 OF 2024

Cube Construction Engineering Limited ...Appellant/Petitioner

Versus

Brihanmumbai Police Sahakari Griha
Nirman Sanstha (Niyojit), Panvel and Ors. ...Respondents

Mr. Rishikesh Soni a/w Mr. Dinesh Pednekar, Mr. Shailesh Poria,
Ms. Tanvi Rana and Mr. Mihir Rathod i/b Economic Laws Practice
for the Appellant/Petitioner.

Mr. Rohan Mahadik, *Ms. Rachana Karad and Ms. Mekhala More i/b*
The Juris Partners for Respondent No.3.

CORAM : SOMASEKHAR SUNDARESAN, J.

DATE : APRIL 9, 2025

PC :

1. The challenge in this Appeal is to an order dated October 11, 2023 whereby the Principal District Judge, Raigad, Alibag refused to grant any interlocutory protection to the Petitioner. After the matter was argued at some length, it was put to the parties that rather than dealing with the challenge to the denial of relief under Section 9 of the Arbitration and Conciliation Act, 1996 ("***the Act***"), it would be appropriate to proceed to arbitration straight way so that the disputes and differences between the parties can be resolved in the arbitral proceedings, leaving it to the Arbitral Tribunal to deal with interlocutory reliefs.

2. Today, when the matter is called out, Learned Counsel for both the parties jointly submit that they have no quarrel with proceeding to

arbitration forthwith leaving all issues on merits open to be agitated before the arbitrator including consideration of any application under Section 17 of the Act.

3. In these circumstances, leaving it open to the Arbitral Tribunal to consider such interlocutory reliefs that the Arbitral Tribunal deems necessary in the conduct of the proceedings, for which it would be appropriate for the Arbitral Tribunal to examine and take a prima facie view of the facts of the case, this Appeal is ***finally disposed of*** appointing Arbitral Tribunal in the following terms:-

A] Justice Mr. Ramesh D. Dhanuka, Former Chief Justice of this Court is hereby appointed as the Sole Arbitrator to adjudicate upon the disputes and differences between the parties arising out of and in connection with the Agreement referred to above;

Address : 131, Mittal Tower, C-Wing,

Barrister Rajni Patel Marg, Nariman Point,

Mumbai – 400 021.

E-mail : rameshddhanuka5@gmail.com/

rdhanuka5@yahoo.com

B] A copy of this Order will be communicated to the Learned Sole Arbitrator by the Advocates for the Appellant within a period of one week from the date on which this order is uploaded on the website of this Court. The Appellant shall provide the contact and communication particulars of the parties to the Arbitral Tribunal along with a copy of this Order;

C] The Learned Sole Arbitrator is requested to forward the statutory Statement of Disclosure under Section 11(8) read

with Section 12(1) of the Act to the Advocates for the Appellant so as to enable them 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 Appeal and a copy of the same shall be furnished by the Advocates for the Appellant to the Respondents;

D] The parties shall appear before the Learned Sole Arbitrator on such date and at such place as indicated, to obtain appropriate directions with regard to conduct of the arbitration including fixing a schedule for pleadings, examination of witnesses, if any, schedule of hearings etc. At such meeting, the parties shall provide a valid and functional email address along with mobile and landline numbers of the respective Advocates of the parties to the Arbitral Tribunal. Communications to such email addresses shall constitute valid service of correspondence in connection with the arbitration;

E] All arbitral costs and fees of the Arbitral Tribunal shall be borne by the parties equally in the first instance, and shall be subject to any final Award that may be passed by the Tribunal in relation to costs.

4. In view of the appointment of the arbitrator, Commercial Arbitration Petition No. 4 of 2024 which is the Petition under Section 11 of the Act is also *finally disposed of*.

5. Needless to say, nothing contained in this order is an expression of an opinion on merits of the matter or the relative strength of the parties. All issues on merits are expressly kept open to be agitated before the arbitral tribunal appointed hereby.

6. All actions required to be taken pursuant to this order shall be taken upon receipt of a downloaded copy as available on this Court's website.

[SOMASEKHAR SUNDARESAN, J.]