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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

COMMERCIAL ARBITRATION PETITION NO. 33 OF 2024

Zamil Steel Building India Pvt. Ltd. ...Petitioner

Versus

KSB Pumps Ltd. ...Respondent

AND

COMMERCIAL ARBITRATION PETITION NO. 34 OF 2024

Zamil Construction India Pvt. Ltd. ...Petitioner

Versus

KSB Pumps Ltd. ...Respondent

Mr.Shrikant Pillai, i/b Solomon & Co. for the Petitioner.

**Mr.Anuj Athalye, a/w Mr. Shubham Kalbere i/b Legasis Partners for
the Respondent.**

CORAM : SOMASEKHAR SUNDARESAN, J.

DATE : JANUARY 14, 2025

PC :

1. These matters have been circulated at the request of the Petitioner. These are applications filed under Section 11(6) read with Section 15(2) of the Arbitration and Conciliation Act, 1996 (***“the Act”***) for nomination of the arbitrator on behalf of the Respondent.

2. A Learned Single Judge of this Court had been pleased to pass an order dated December 9, 2024, disposing of these Petitions under Section

11 of the Act by nominating one Mr. Dattaprasad Abhang with his particulars recorded in the aforesaid order. It transpires that the arbitrator nominated by the Learned Single Judge on behalf of the Respondent has recused by communication dated December 31, 2024, which was received on January 3, 2025. Consequently, a praecipe was filed on January 7, 2025 to substitute the arbitrator who had been appointed on December 9, 2024.

3. The reasons for which the Learned Single Judge nominated an arbitrator on behalf of the Respondent are recorded in the order dated December 9, 2024 passed by the Learned Single Judge. It is not open to me to review reasons and examine the accuracy or appropriateness of the same as the Learned Counsel for the Respondent seeks today. Learned Counsel for the Respondent submits that on the last occasion he did not have notice of the matter being taken up and therefore did not appear. According to him, arbitration proceedings had commenced pursuant to an invocation in 2018 and that had lapsed, and this is the second initiation, and therefore without jurisdiction. All the aforesaid contentions are kept open to be agitated before the arbitral tribunal, particularly, in view of the provisions of Section 16 of the Act, which empowers the arbitral tribunal to rule on its own jurisdiction.

4. In these circumstances, the limited issue before me is to substitute the arbitrator who came to be appointed on December 9, 2024 due to recusal. In these circumstances, Mr. V.K. Deshpande, Address :

Sairang Apartment, Flat No.603, Near Paranjape Nursery School, Kothrud, Pune – 411 038, Email id : Vyankateshrao@gmail.com, is hereby appointed as a substitute nominee, on behalf of Respondent. The two incumbent arbitrators will decide upon the presiding arbitrator and shall take the matter forward from that stage. No other change is effected to the order dated December 9, 2024. This Application in the form of praecipe is finally disposed of in the aforesaid terms. The parties shall approach the two incumbent arbitrators not later than **January 31, 2025** for further directions in the matter.

5. 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.]