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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

ARBITRATION PETITION NO.56 OF 2025

M/s. Shah Consultants

....Petitioner

Versus

M/s. Infratech

....Respondent

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Petitioner was represented, but the appearance has not been given.

None for the Respondent.

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CORAM: SOMASEKHAR SUNDARESAN, J.

DATE : APRIL 15, 2025

PC :

1. This Petition has been filed under Section 11 of the Arbitration and Conciliation Act, 1996 (*"the Act"*) seeking appointment of an arbitrator in connection with disputes and differences between the parties relating to Leave and License Agreement dated May 27, 2022 (*"Agreement"*), pursuant to which office premises situated in Vashi in Thane District has been contracted to be taken on a license. The arbitration agreement is contained in Clause 29 (found at Page 43 of the Petition). In the interest of brevity, the same is not reproduced here. Suffice it to say that the matter falls within the jurisdiction of this Court.

2. None appears for the Respondent. This Court put a specific question to the Petitioner to consider the facet that the dispute may face an ouster of jurisdiction of arbitration by reason of eviction from premises given on license being covered by the jurisdiction of the rent laws.

3. Learned Counsel for the Petitioner has submitted that in terms of the Maharashtra Rent Control Act, 1999 and Section 33 thereof, none of the provisions under which the non-obstante provision would oust the jurisdiction of other forums, are attracted to the facts of this case. For felicity Section 33 of the Maharashtra Rent Control Act, 1999 is reproduced as under:-

*“33. Jurisdiction of courts.— (1) Notwithstanding anything contained in any law for the time being in force, but subject to the provisions of Chapter VIII, and notwithstanding that by reason of the amount of the claim, or for any other reason, the suit or proceeding would not, but for this provision, be within its jurisdiction,—*

*(a) in Brihan Mumbai, the Court of Small Causes, Mumbai,*

*(b) in any area for which a Court of a Small Causes is established under the Provincial Small Causes Courts Act, 1887 (IX of 1887), such court, and*

*(c) elsewhere, the court of the Civil Judge (Junior Division) having jurisdiction in the area in which the premises are situate or, if there is no such Civil Judge, the Court of the Civil Judge (Senior Division) having ordinary jurisdiction, shall have jurisdiction to entertain and try any suit of proceeding between a landlord and a tenant relating to the recovery of rent or possession of any premises and to decide any application made under this Act (other than the application which are to be decided by the State Government or an officer authorised by it or the Competent Authority) and subject to the provisions of sub-section (2), no other court*

*shall have jurisdiction to entertain any such suit, proceeding, or application or to deal with such claim or question.*

*(2) (a) Notwithstanding anything contained in clause (b) of sub-section (1), the District Court may at any stage withdraw any such suit, proceeding or application pending in a Court of Small Causes established for any area under the Provincial Small Causes Courts Act, 1887 (IX of 1887), and transfer the same for trial or disposal to the Court of the Civil Judge (Senior Division) having ordinary jurisdiction in such area;*

*(b) where any suit, proceeding or application has been withdrawn under clause (a), the Court of the Civil Judge (Senior Division) which thereafter tries such suit, proceeding or application, as the case may be, may either retry it or proceed from the stage at which it was withdrawn;*

*(c) The Court of the Civil Judge trying any suit, proceeding or application withdrawn under clause (a) from the Court of Small Causes, shall, for purposes of such suit, proceeding or application, as the case may be, be deemed to be the Court of Small Causes.”*

4. The premises are not situated in Mumbai or in a district covered by a Court of Small Causes established under the Provisions of Small Causes Court, 1887. The relationship between the parties is not one of landlord and tenant. He would submit that the ouster of jurisdiction of arbitration under the Maharashtra Rent Control Act, 1999 is not attracted at all.

5. Having examined the contentions of the Petitioner and *prima facie* being satisfied that the ouster of arbitration as provided in the Maharashtra Rent Control Act, 1999 is not attracted by the facts of the case, no useful purpose would be served by keeping these proceedings pending any further on the docket of this Court.

6. Learned Counsel for the Petitioner seeks to rely on ***Vidya Drolia Vs. Durga Trading Corporation***<sup>1</sup> to submit that even in a landlord-tenant relationship, if it is a transfer governed by the Transfer of Property Act, and not by the provisions contained in tenant protection laws such as Maharashtra Rent Control Act, 1999, the arbitration agreement would run its full course.

7. Be that as it may, considering the specific facts and circumstances of the case and taking note of the fact that *prima facie*, jurisdiction of arbitration over the Agreement as contracted is not ousted, this Petition would be disposed of in the following terms:-

A] Ms. Yogita Deshmukh, a Learned Advocate 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.

B] A copy of this Order will be communicated to the Learned Sole Arbitrator by the Advocates for the Petitioner within a period of one week from today. The Petitioner 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

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<sup>1</sup>  
2021 – II SCC 1

the statutory Statement of Disclosure under Section 11(8) read with Section 12(1) of the Act to the Advocates for the Petitioner 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 Petition and a copy of the same shall be furnished by the Advocates for the Petitioner to the Respondent;

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 and;

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.

8. 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.

9. 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.]**