IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

ARBITRATION PETITION NO. 94 OF 2025

Sany Heavy Industry India Pvt Ltd ...Petitioner

Versus

Sri Muneshwara Suppliers & Anr ...Respondents

Ms. Bijal Gogri *a/w Keertana Nair, i/b GNP Legal for the Petitioner.*

None for Respondents.

CORAM : SOMASEKHAR SUNDARESAN, J.

DATE : APRIL 17, 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 that are said to have arisen between the parties under an agreement dated September 30, 2021. The arbitration agreement is contained in Clause 16.4 (found at Page 50 of the Petition). In the interest of brevity, the arbitration agreement is not being extracted here. Suffice it to say that this matter falls within the jurisdiction of this Court.

2. It is apparent from the record that the arbitration agreement

Digitally signed by ASHWINI JANARDAN VALLAKATI Date: 2025.04.24 13:28:09 +0530

was invoked by the Petitioner on January 17, 2025. There is no reply to the said invocation. Consequently, no useful purpose would be served in keeping this Petition pending any further.

3. The scope of review under Section 11 is explicitly set out in Section 11(6A) of the Act. It is now trite law, with particular regard to the decisions of a seven-judge bench in the ***Interplay Judgement***[1] followed by multiple others, including ***SBI General***[2] and ***Patel***[3] that the Section 11 Court ought not to venture beyond examining the existence of a validly existing arbitration agreement that has been formally executed. Even questions of existential substance is a matter that falls squarely in the domain of the arbitral tribunal, in view of Section 16 of the Act.

4. Being satisfied that an arbitration agreement is validly in existence, and that arbitration has been duly invoked, it is in the fitness of things to refer the disputes and differences between the parties in connection with the aforesaid agreement to arbitration by a Sole Arbitrator.

5. In these circumstances, this Petition is hereby ***finally***

[1] *In Re: Interplay Between Arbitration Agreements Under Arbitration and Conciliation Act, 1996 & Stamp Act, 1899 – (2024) 6 SCC 1*
[2] *SBI General Insurance Co. Ltd. v. Krish Spinning – 2024 SCC OnLine SC 1754*
[3] *Ajay Madhusudan Patel v. Jyotrindra S. Patel – 2024 SCC OnLine SC 2597*

disposed of, in terms of the following order:

a) ADReS Now, an independent online dispute resolution institution is directed to appoint a 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) The contact particulars of the Registrar, ADReS Now are set out below:-

Email id : registry@adresnow.com

Address: 63, Palace Road, Vasanthnagar, Bengaluru, 560001.

Website: www.adresnow.com

c) A copy of this Order will be communicated to ADReS Now by the Advocates for the Petitioner within a period of one week from the date on which this order is uploaded on the website of this Court. The Petitioner shall provide the contact and communication particulars of the parties to ADReS Now along with a copy of this Order;

d) It is clarified that ADReS Now being an ODR institution, all proceedings will be conducted online through electronic mode, unless otherwise agreed between the appointed Arbitrator and the parties, with appropriate notification to the Registry of ADReS Now;

e) The Registry of ADReS Now is requested to appoint an independent arbitrator in compliance with the Act and its own rules consistent with the Act as soon as possible and in any event within a period of two weeks from receipt of a copy of this Order;

f) 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 Registry of ADReS Now and any other particulars as reasonably requested by the Registry. Communications to such email addresses shall constitute valid service of correspondence in connection with the arbitration;

g) All arbitral costs and fees of the arbitration 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; and

h) The seat of the arbitration shall be deemed to be the same as the seat discernible from the Agreement while the arbitration shall primarily be conducted online.

6. 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.

7. 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.]