
IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

COMMERCIAL ARBITRATION PETITION NO.5 OF 2025

Maha Active Engineers India Private Limited Petitioner
Versus
Ashoka Buildcon Limited Respondent

Ms Bindi Dave a/w. *Mr. Aayesh Gandhi & Mr. Gaurang Samel*
i/b. Wadia Ghandy & Co., Advocates for Petitioner.

Mr. Nikhil Sakhardande, Senior Advocate a/w. *Hrishikesh S.*
Chitaley & Shubhra Swami, Advocates for Respondent.

CORAM: SOMASEKHAR SUNDARESAN, J.

DATE : MARCH 5, 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 arising out of Agreement dated February 24, 2009 (*"Agreement"*). The arbitration agreement is contained in Clause 36 of the Agreement (found at pages 62 and 63 of the Petition). In the interest of brevity, the same are not reproduced here. Suffice it to say that the matter falls within the jurisdiction of this Court.

2. Today, when the matter is called out, Learned Counsel for the Respondent submits that he has instructions to state that the Respondent is nominating an arbitrator, namely, Justice Shri R. K. Deshpande (Retd.) as his nominee arbitrator. Since the Petitioner has already appointed a nominee arbitrator, namely, Justice Shri. A. R.

Joshi (Retd.), the two nominee arbitrators shall select a presiding arbitrator, no later than March 19, 2025.

3. The parties shall now proceed to the Arbitral Tribunal, which shall issue instructions on how to proceed for the same.

4. In these circumstances, this Petition is ***finally disposed of*** by directing the parties to intimate this Order to both the aforesaid nominee arbitrators, calling upon them to select a Presiding Arbitrator, which shall be done within a period of three weeks from the time they are approached by the Petitioner.

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.]