

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

COMMERCIAL ARBITRATION PETITION NO.554 OF 2021

Aditya Dharmendra Goyal & Anr.	...Petitioners
Versus	
M/s. Rudra Super Structures LLP & Anr.	...Respondents

**WITH
ARBITRATION PETITION NO.19 OF 2024**

M/s. Rudra Super Structures LLP & Anr.	...Petitioners
Versus	
Aditya Dharmendra Goyal & Anr.	...Respondents

Mr. Mayur Khandeparkar a/w. *Mr. Vikramjit Garewal & Umesh Tawari i/b. M/s. S. Ashwinkikumar & Co. LLP, Advocates for Petitioners in CARBP/554/2021 & Respondents in ARBP/19/2024.*

Mr. K.H. Holambe Patil a/w. *Vishal G. Shirsat & Digambar G. Kate, Advocates for Petitioner in ARBP/19/2024 & Respondent No.1 in CARBP/554/2021.*

Mr. Ankur Pahade, *Advocate for Respondent No.2 in CARBP/554/2024 and for Petitioner No.2 in ARBP/19/2024.*

CORAM: SOMASEKHAR SUNDARESAN, J.

DATE : FEBRUARY 3, 2025

PC :

1. Commercial Arbitration Petition No.554 of 2021 and Arbitration Petition No.19 of 2024 are filed under Section 9 of the Arbitration and Conciliation Act, 1996 (*“the Act”*).

2. With the consent of parties, both these matters were heard together. It is stated by the parties that Commercial Arbitration Application (L) No.21664 of 2023 had been filed under Section 11 of the Act and is shown on the case management information system as being disposed of. Learned Counsel for the parties suggest that it could have been disposed of for want of removing office objections.

3. Be that as it may, after the matters were heard at some length, Learned Counsel for the parties agreed that without any expression of any opinion on any facet of the merits of the matter, it would be most economical and reasonable for all parties to submit all their disputes and differences amongst them, as covered by the aforesaid proceedigns, to arbitration by a Learned Sole Arbitrator appointed by this Court.

4. This is because there are agreements with multiple obligations that cut across the parties. One agreement dated February 15, 2020 is between the Petitioners, Respondent No.1 and Respondent No.2, which indeed contains an arbitration clause, which is spread across Clauses 9 to 14 of the agreement, (found at Pages 69 to 70 of the Commercial Arbitration Petition No.554 of 2021).

5. There is a separate Development Agreement between the Petitioners, Respondent No.1 and another party one Mr. Prashant Parekh, who is Respondent No.4 in the aforesaid Section 11 Application. That agreement does not have an arbitration clause. Ms. Mistry, Learned Counsel for Mr. Prashant Parikh (who is the only party not covered by the said arbitration agreement) is present today, and submits that she would have no objection to submit to arbitration without any expression of opinion on merits, leaving open, all contentions insofar as any claim may be raised by them.

6. In these circumstances, it would only be appropriate to sent the parties to arbitration by mutual consent pursuant to this order and both these proceedings are *finally disposed of*, in terms of the following order:

A] Mr. Shanay Shah, an 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. The details of the Learned Arbitrator are as under:-

Office Address:- Office No.17-A, 4th Floor,
Surya Mahal, Burjorji Bharucha Marg,
Fort, Mumbai – 400 023.

Email ID :- shahshanay@hotmail.com

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 this order being uploaded on the website of this Court. 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 the statutory Statement of Disclosure under Section 11(8) read with Section 12(1) of the Act to the parties within a period of two weeks from receipt of a copy of this Order;

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.

7. 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.

8. Considering the complicated inter-play of documents in question, each party is at liberty to file such application as advised under Section 17 of the Act leaving it to the arbitral tribunal to make such arrangement as may be considered necessary taking into account the facts and circumstances of the case presented before the arbitral tribunal.

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.]