
IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

COMMERCIAL ARBITRATION APPLICATION NO.79 OF 2024

Dhirajlal Chhaganlal Mayani & Anr. ...Applicants
Versus
M/s. Nandi Tarpaulins & Ors. ...Respondents

Mr. Sunny Shah a/w. *Mr. Akshay Suresh i/b. Ashwin Ankhad & Associates, Advocates for Applicants.*

Mr. Durgaprasad Sabnis a/w. *Hiten Lala, Advocates for Respondent Nos.3 and 4.*

CORAM: SOMASEKHAR SUNDARESAN, J.

DATE : MARCH 7, 2025

PC :

1. This Application 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 Partnership Deed dated February 1, 1988 (*"Agreement"*). The arbitration agreement is contained in Clause 19 (Page No.38 of the Agreement). 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. After the matter was argued for some time, Learned Counsel for the parties jointly submit that keeping all contentions open including the facet of limitation in respect of some parts of the disputes for which invocation has been effected in 2022, they would proceed to arbitration by a sole arbitrator appointed by the Court.

3. In these circumstances, this Application is *finally disposed of* sending the parties to arbitration without any expression of opinion on the merits of the case, to an Arbitral Tribunal appointed hereby in the following terms :

A] Mr. Firoz Bharucha, 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 Applicant within a period of one week from today. The Applicant 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 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.

4. 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.

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.]