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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

COMM. ARBITRATION APPLICATION (L) NO. 34001 OF 2024
ALONGWITH
COMM. ARBITRATION APPLICATION NO. 263 OF 2024

Vasistha Projects

...Applicant

Versus

Maharashtra Airport Development Co. Ltd.
and Anr.

...Respondents

Mr. Udaya Shankar Samudrala *for the Petitioner.*

Mr. Satish S. Adsul *for Respondent No.1.*

CORAM : SOMASEKHAR SUNDARESAN, J.

DATE : JULY 14, 2025

ORDER :

1. Registry to de-tag these two captioned matters.

2. Learned Advocate for Respondent No.1 in Commercial Arbitration Application No. 263 of 2024 is present today. This is an Application 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 July 12, 2017 (***“Agreement”***). The arbitration agreement is contained in Clause 20 of the Agreement (Page Nos. 258 to 260 in the reply).

3. It is seen from a letter dated March 14, 2022 that the Respondent has drawn the attention of the Applicant to the very same arbitration

agreement containing Clause 20 and has stated that the procedure set out therein must be followed. The Applicant is pursuing appropriate proceedings under Clause 20 but no Arbitral Tribunal has been appointed till date.

4. Learned Counsel for Respondent No.1 submits that the arbitration clause entails reference of all disputes to an engineer and the engineer has no locus to decide the nature of disputes raised by the Applicant in the invocation notice. In my opinion, if the engineer does not have capacity to decide the matter, it would only follow that the pre-arbitration procedure would have no application to the facts of the case. However, that would not mean that the parties have not signed an arbitration agreement and that too when it is seen that the Respondent No.1 itself by its letter dated March 14, 2022 has drawn the attention of the Applicant to follow the process provided in the arbitration agreement.

5. In these circumstances, Commercial Arbitration Application No. 263 of 2024 is *finally disposed of* in the following terms :

A. Mr. Amogh Singh, a learned advocate of this Court is appointed as a nominee arbitrator on behalf of the Respondent.

B. The Applicant shall intimate to the nominee arbitrator, his nominee arbitrator within a period of two weeks from the date of upload of this order on the website of this Court.

C. Both the Arbitrators so nominated shall appoint the presiding arbitrator, and then the Learned Arbitral Tribunal so constituted shall consider the matter in terms of the arbitration agreement between the parties.

6. Commercial Arbitration Application (L) No. 34001 of 2024 is stood over to ***July 28, 2025***.

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.]