

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
ARBITRATION APPLICATION NO. 196 OF 2023
WITH
COMMERCIAL ARBITRATION PETITION NO. 440 OF 2024**

Schindler India Pvt. Ltd.

...Petitioner/
Applicant

Versus

Gupta Housing Pvt. Ltd.

...Respondent

Ms. Shilpa Kapil, for the Applicant/Petitioner.

Ms. Ragini Singh, a/w Sanjana Salvi, i/b Ragini Singh & Associates, for Respondent.

CORAM : SOMASEKHAR SUNDARESAN, J.

DATE : JANUARY 29, 2025

PC :

1. Arbitration Application No.196 of 2023 is an Application under Section 11 of the Arbitration and Conciliation Act, 1996 (“***the Act***”) while Commercial Arbitration Petition No.440 of 2024 is a Petition under Section 9 of the Act. The disputes and differences between the parties relate to an agreement dated June 17, 2020 which evidently contains an arbitration clause. The arbitration clause has been copied and typed on page 31 of the Application.

2. The problem with the arbitration clause is that it envisages appointment of an arbitrator from a panel unilaterally maintained by the Petitioner and Applicant. That being the case, Learned Counsel for the Petitioners states that she leaves it to the Court to appoint an arbitrator.

3. Having found that an arbitration agreement is indeed in existence and taking into the fact that the arbitral tribunal is eminently capable of dealing with the contents of Section 9 Petition as an Application under Section 17, both the Application and Petition are hereby ***finally disposed of*** in the following terms:-

a) Ms. Maithili Parikh, 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 contact particulars are as follows:-

Ms. Maithili Parikh,
Add: C/o Zal Andhyarujina,
302, Mistry Mansion,
M.G. Road, Mumbai- 400 01
Email ID: maithili.sparikh@gmail.com

- 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;
- 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. 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.]