

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

ARBITRATION APPLICATION NO. 86 OF 2024

Hitesh Coal Traders

...Applicant

Versus

Vaishnavi Rolling Mill Pvt. Ltd.

...Respondent

Ms.Prajakta Gaonkar, i/b Ms. Rucha Jog for the Applicant.

None for Respondent.

CORAM : SOMASEKHAR SUNDARESAN, J.

DATE : JANUARY 14, 2025

PC :

1. 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 relating to supply of imported coal by the Applicant to the Respondent. Various invoices appeared to have been raised from time to time between December 2016 and December 2018. Disputes arose in connection with the quality of the coal supplied and the payments to be made. Consequently, the Applicant invoked arbitration by a letter dated August 1, 2022, to which the Respondent issued a reply dated August 24, 2022.

2. It is seen from plain reading from the reply that the coal was indeed supplied and in fact there were disputes about quality of the coal supplied, due to which payments were withhold by the Respondent to the

Applicant. In view of the Arbitral Tribunal not getting courts listed, this Application has been moved on November 22, 2023.

3. It is now trite law that the Court exercising jurisdiction under Section 11 of the Act must confine its scrutiny to the existence of an arbitration agreement and to the existence of the disputes and differences for which a valid invocation is made. Being satisfied that arbitration agreement exists and disputes indeed exist, leaving all contentions of the parties to arbitral tribunal to decide upon, the Application deserves to be allowed in the following terms:-

a) Mr. Mandar Limaye, 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. The contact particulars are set out below :

Address : Apte Rugnalaya, Ram Maruti Road,

Cross Lane No.1, Naupada,

Thane (West) – 400 602.

Email id : limaye10mandar@gmail.com

b) A copy of this Order shall 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 Advocates for the Applicant so as to enable them to file the same in the Registry of this Court. The Registry of this Court shall retain the said Statement on the file of this Application and a copy of the same shall be furnished by the Advocates for the Applicant to the Respondents;

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; and

4. It is made clear, that nothing contained in this order is an expression of an opinion on the merits of the matter. All issues including

validity and substance of arbitration agreement are to be dealt with by the arbitral tribunal in terms provisions of the Act. Consequently, this Application is ***finally disposed of*** in the aforesaid terms.

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.]