
IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

COMMERCIAL ARBITRATION APPLICATION NO.106 OF 2024
WITH
COMMERCIAL ARBITRATION APPLICATION NO.78 OF 2024
WITH
COMMERCIAL ARBITRATION APPLICATION NO.92 OF 2024

Hariom Projects Pvt. Ltd.

....Applicant

Versus

Military Engineer Services

Through Chief Engineer & Anr.

....Respondents

Mr. Shamik Sanjanwala *a/w. Ms. Meghna Vijay, Advocates for Applicant.*

Mr. H. Sharma *i/b. Sayali Sawant, Advocate for Respondents.*

CORAM: SOMASEKHAR SUNDARESAN, J.

DATE : AUGUST 8, 2025

ORDER :

1. These Applications have 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 that are said to have arisen between the parties under Work Orders dated 30 June, 2016, April 9, 2014 & January 10, 2015 (***“Agreements”***). The arbitration agreement is contained in Condition 70 (found at Page 100, 95 & 99 of the Applications) of the General Conditions of Contracts. In the interest of brevity, the arbitration agreement is not being extracted

here. Suffice it to say that this matter falls within the jurisdiction of this Court.

2. Learned Counsel for the parties have no quarrel with proceeding forthwith to arbitration to be conducted by any one of 21 names listed in the panel of arbitrators maintained by the Respondents. Each party has a list of five names from such list and all five names in each list differ from the names contained in the other party's list.

3. In these circumstances, all the three Applications are finally disposed of referring disputes and differences covered in such applications to arbitration. While there are three matters and there could be three separate causes of action, *prima facie* the parties being the same, it appears to this Court that economies of scale may be achieved by all three matters being dealt with by the same arbitrator.

4. In these circumstances, all the three applications ***are finally disposed of*** in the following terms :-

A] Mr. B. Poiyaamozhi, Retired Development Advisor, Ministry of Shipping, an empanelled arbitrator of the Ministry of Defence, 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 the date of upload of this order. 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 Advocates for the Respondent;

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.

5. 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.

6. 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.]