

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS COMMERCIAL DIVISION
COMMERCIAL ARBITRATION PETITION NO. 415 OF 2022

Ketan Shah ...Petitioner

Versus

Sattadhar Constructions & Ors ...Respondents

WITH
COMMERCIAL ARBITRATION APPLICATION NO. 262 OF 2024

Mr. Akshay Shetty, i/b AVC & Associates, for the Petitioner in CARBP/415/22 & CARBAP/262/24.

Mr. Khushnumah Banerjee, i/b Vidhi Partners, for Respondent No.2.

Mr. Kunal Dwarkadas, a/w Nitesh Ranavat, Disha Shetty, Mustaqueem B, Jyothi Taked, i/b Wadia Ghandy, for Respondent No.1.

Mr. Mayur Khandeparkar, a/w Amar Parab, Jay Chawan, i/b Kalpesh Joshi Associates, for Respondent Nos.3a to 3c.

CORAM : SOMASEKHAR SUNDARESAN, J.

DATE : FEBRUARY 12, 2025

PC :

1. This Petition has been filed under Section 9 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 February 29,

2022.

2. Today, when the matter is called out, Learned Counsel for the parties jointly submit that they would be agreeable to have all the disputes and differences between them in connection with the aforesaid agreement referred to resolution by an arbitral tribunal, leaving it open to the parties to seek such interlocutory relief as they may desire from the arbitral tribunal.

3. Commercial Arbitration Application No. 262 of 2024 (“**Section 11 Application**”) relates to the very same matter between the very same parties, seeking appointment of an arbitrator. The Section 9 Petition shall be treated as an Application under Section 17 of the Act by the arbitral tribunal appointed hereby. Given the efflux of time, the Petitioner is at liberty to modify or mould the contents of Section 9 Petition for its consideration as a Section 17 Application.

4. In these circumstances, these proceedings are hereby ***finally disposed of***, in terms of the following order:

A] Mr. Aseem Naphade, 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;
Office Address:-

Add: 31, Shanti Building, 3rd Floor, Banaji Street,
Fort, Mumbai- 400 001
Email ID: aseem1112@gmail.com

B] A copy of this Order will be communicated to the Learned Sole Arbitrator by the Advocates for the Petitioner within a period of one week from today. The Petition 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;

E] 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;

F] 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.]