
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
COMMERCIAL ARBITRATION PETITION NO. 8 OF 2024

Nemchand Savla

...Petitioner

Versus

Entity Developers Pvt. Ltd. & Ors

...Respondents

WITH
COMMERCIAL ARBITRATION APPLICATION NO. 7 OF 2024

Mr. Shanay Shah, a/w Ameet Mehta, Nirav Marjadi, Sanil Gada,
Kushal Harnesha, i/b Solicis Lex, for the Petitioner.

Mr. Lalit V. Jain, for Respondent No. No.1.

CORAM : SOMASEKHAR SUNDARESAN, J.

DATE : JANUARY 14, 2025

PC :

1. This is a Petition under Section 9 of the Arbitration and Conciliation Act, 1996 (“***the Act***”)

2. Today, when the matter is called out, Learned Counsel for the parties jointly submit that they would be willing to submit their disputes and differences to be adjudicated by an arbitrator appointed by this Court. In these circumstances, the Petition filed under Section 9 of the Act shall be treated as an Application under Section 17 of the Act by the Learned Sole Arbitrator. Given the efflux of time, the Petitioner is at

liberty to mould such Application under Section 17 before the Learned Sole Arbitrator.

3. The parties shall approach the Learned Sole Arbitrator at any time convenient to him no later than January 27, 2025.

4. Learned Counsel for Respondent No.1 submits that the parties are at an advanced stage of settlement. Be that as it may, should the parties settle before January 27, 2025, they would not even need to approach the Learned Sole Arbitrator, hereby appointed. Needless to say, even after an Arbitrator is appointed, it will always be open to the parties to reach a commercial bargain to settle their disputes. In these circumstances, the following order is passed:-

- a) Shri. Justice M.S. Sanklecha, a former Judge 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;
- 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 Arbitration and Conciliation Act, 1996 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; and

f) The parties have agreed that the venue and seat of the arbitration will be in Mumbai. It is clarified that it shall be open to the Arbitral Tribunal to conduct the proceedings online through electronic mode.

5. In these circumstances, by appointing the Learned Sole Arbitrator named above, both these Petitions are ***finally disposed of*** in the aforesaid terms.

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.]