

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

COMMERCIAL ARBITRATION PETITION NO.113 OF 2024
AND
COMMERCIAL ARBITRATION PETITION NO.478 OF 2024

Maqsood Usman Kazi

...Petitioner

Versus

Vivek Kamlakar Desai

...Respondent

Mr. Vishwajeet Sawant (Sr. Adv.) *a/w. Mr. Satyajeet A. Rajeshirke, Mr. Gautam R. Kulkarni, Mr. Shubham R. Vasekar & Mr. Rahul B. Vijaymane i/b. Mr. Satyajeet A. Rajeshirke, Advocate for Petitioner.*

Mr. Vivek Kamalakar Desai *for Respondent.*

CORAM: SOMASEKHAR SUNDARESAN, J.

DATE : APRIL 25, 2025

PC :

1. This Petition has 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 the modified Development Agreement dated December 10, 2020 (*"Agreement"*) executed between the parties. The arbitration agreement is contained in Clause 20 (found at Page 111 of the Petition). 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. After the matter was argued for some time, 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 reliefs as they may desire from the arbitral tribunal.

3. The parties agree that the Section 9 Petition may stand converted into an Application under Section 17 of the Act for consideration by the arbitral tribunal appointed hereby. All proceedings and pleadings and arrangements obtaining in the Section 9 Application shall be stood over for consideration by the Arbitral Tribunal appointed hereby. The parties shall approach the arbitral tribunal within a week from uploading of this order on the website of this Court for further instruction on how to proceed in respect of interlocutory arrangements that may be necessary for conduct of the arbitral proceedings.

4. In these circumstances, these proceedings (both, this Section 11 Petition and the aforesaid Section 9 Petition) are hereby ***finally disposed of***, in terms of the following order :-

A] Mr. Mohan Narayan Kulkarni, an advocate of this Court is hereby appointed as the Sole Arbitrator to adjudicate

Page 2 of 4
APRIL 25, 2025

upon the disputes and differences between the parties arising out of and in connection with the Agreement referred to above;

Office Address:-Bhagwati Heritage, J Wing,
402, Sector No.21, Kamothe,
New Mumbai, Tal. Panvel,
Dist. Raigad.
Mobile No.9767022771/9969143683

B] A copy of this Order will be communicated to the Learned Sole Arbitrator by the Advocates for the Petitioner from the date on which this order is uploaded on the website of this Court. The Petitioner 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.

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.]