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

ARBITRATION PETITION NO. 155 OF 2025
IN
ARBITRATION PETITION NO. 115 OF 2021
ALONGWITH
ARBITRATION PETITION (L) NO. 28575 OF 2023

Bholanath Kapil Gupta

...Petitioner

Versus

Attar Kaur Mansion Co.operative Hous-
ing Society Limited

...Respondent

Mr. Jeetendra Ranawat *i/b Mr. Waqual Ahmad for the Petitioner.*
Mr. Sandeep Bhimekar *i/b J. Sagar Associates for the Respondent.*

CORAM : SOMASEKHAR SUNDARESAN, J.

DATE : JUNE 13, 2025

ORDER :

ARBITRATION PETITION NO. 155 OF 2025

1. This is a Petition filed under Section 15 of the Arbitration and Conciliation Act, 1996 (***“the Act”***).
2. Learned Counsel for the parties jointly submit that they have consensus on proceeding before a substitute arbitrator identified by them. Consequently, the Arbitral Tribunal will now be manned by a substitute arbitrator.
3. In these circumstances, the Petition is ***finally disposed of*** in the following terms :-

A] Mr. Amit S. Mehta, a Learned Advocate of this Court is hereby appointed as the Sole Arbitrator to adjudicate upon the disputes and differences between the parties.

B] A copy of this Order will be communicated to the Learned Sole Arbitrator by the Advocate for the Petitioner within a period of one week 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 Advocate for the Petitioner 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 Advocate for the Petitioner to 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.

4. 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.

ARBITRATION PETITION (L) NO. 28575 OF 2023

5. This is a Petition filed under Section 27 of the Act seeking directions to telecom service providers, namely Bharati Airtel and Vodafone Idea, directing them to produce before the Arbitral Tribunal call data and records of the designated mobile number set out in prayer clause “a”.

6. It is an admitted position that an application to this effect was filed with the arbitrator seeking approval of the arbitrator to apply to this Court in this regard under Section 27 of the Act. By an order dated September 23, 2023 that application came to be rejected.

7. A precondition for the jurisdiction under Section 27 of this Court to be attracted is the approval of the Arbitral Tribunal to enable one the parties to seek Court’s assistance in the course of taking evidence. Since the Arbitral Tribunal has not granted approval to the Petitioner to move this Petition, this Court is without jurisdiction to entertain this Petition under Section 27 of the Act. One of the fundamental objectives of the Arbitration and Conciliation Act is to minimize court interference in the conduct of the proceedings if the Court under Section 27 of the Act starts issuing directions

in the teeth of the rejection by the Arbitral Tribunal it would all fall of this basic objective of alternate dispute.

8. The Petition is therefore liable to be dismissed.

9. Petition stands ***finally disposed of*** as dismissed.

10. 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.]