

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS COMMERCIAL DIVISION
ARBITRATION APPLICATION NO. 12 OF 2025
WITH
ARBITRATION APPLICATION NO. 10 OF 2025

Bhoir Dredging Co. Pvt. Ltd. ...Applicant

Versus

Offshore Infrastructure Ltd. ...Respondent

Mr. Gandhar Raikar, a/w Anaya Dalvie, Iyanah Parbhoo, i/b Meraki Chambers, for the Applicant.

Mr. Hasmit Trivedi, a/w Sumi Soman, Indra Lahoti, i/b M/s. Praxis Legal, for Respondent.

CORAM : SOMASEKHAR SUNDARESAN, J.

DATE : FEBRUARY 12, 2025

PC :

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 two Charter Party Agreement dated April 24, 2018.

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. Learned Counsel for the parties are *ad idem* that there is a arbitration agreement between them. Consequently, the objections taken hitherto would not need consideration in view of the law declared by the Supreme Court about the scope of jurisdiction under Section 11 of the Act.

4. The scope of review under Section 11 is explicitly set out in Section 11(6A) of the Act. It is now trite law, with particular regard to the decisions of a seven-judge bench in the *Interplay Judgement*¹ followed by multiple others, including *SBI General*² and *Patel*³ that the Section 11 Court ought not to venture beyond examining the existence of a validly existing arbitration agreement that has been formally executed. Even questions of existential substance is a matter that falls squarely in the domain of the arbitral tribunal, in view of Section 16 of the Act.

5. Being satisfied that an arbitration agreement is validly in existence, and that arbitration has been duly invoked, it is in the fitness of things to refer the disputes and differences between the parties in

¹ *In Re: Interplay Between Arbitration Agreement under Arbitration and Conciliation Act, 1996 and Stamp Act, 1899* (2024) 6 SCC 1

² *SBI General Insurance Co. Ltd. Vs. Krish Spinning*, 2024 SCC OnLine 1974

³ *Ajay Madhusudan Patel Vs. Jyotindra S. Patel*, 2024 SCC OnLine, 2597

connection with the aforesaid agreement dated April 24, 2018 to arbitration by a Sole Arbitrator.

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

A] Ms. Priya S., 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;

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 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.

7. 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.

8. 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.]