

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

ARBITRATION APPLICATION NO.140 OF 2024

Sany Heavy Industry India Pvt. Ltd.	...Applicant
Versus	
Babu Lal & Anr.	...Respondents

Ms Bijal K. Gogri i/b. GNP Legal, Advocate for Applicant.

CORAM: SOMASEKHAR SUNDARESAN, J.

DATE : FEBRUARY 20, 2025

PC :

1. By an Order dated December 2, 2024, a Learned Single Judge of this Court had been pleased to make a provisional appointment of a sole arbitrator. The only reason the appointment is provisional was to give one last chance to the Respondent to enter appearance and present its say.
2. Today yet again, none appears for the Respondent. Consequently, I see no useful purpose being served in keeping this matter pending on the docket of this Court.
3. However, Learned Counsel for the Applicant submits that the arbitrator who had been provisionally appointed has now been appointed as a District Judge. Consequently, she requests for the arbitrator appointed on the last occasion to be replaced.
4. The arbitrator is hereby replaced in the following terms:-

A] The disputes and differences between the parties are referred to the Indian Law Society's Centre for Arbitration and Mediation, Pune (<https://ilsca.co.in>), in terms of its Institutional Arbitration Rules, to appoint an appropriate 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 Indian Law Society's Centre for Arbitration and Mediation, Pune by the Advocates for the Applicant within a period of one week from the date on which this order is uploaded on the website of this Court. The Applicant shall provide the contact and communication particulars of the parties to the Centre 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 Act to the Advocates for the Applicant 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 Advocates for the Applicant 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.

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. This Application is ***finally disposed of*** in the aforesaid terms.

7. This order will be digitally signed by the Private Secretary/Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

[SOMASEKHAR SUNDARESAN, J.]