

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
INTERIM APPLICATION (L) NO.31260 OF 2024
IN
ARBITRATION APPLICATION NO.165 OF 2024
WITH
ARBITRATION PETITION NO.300 OF 2024
WITH
INTERIM APPLICATION (L) NO.19580 OF 2024
IN
ARBITRATION PETITION NO.300 OF 2024
WITH
INTERIM APPLICATION (L) NO.31260 OF 2024
IN
ARBITRATION PETITION NO.165 OF 2024

AARTI
GAJANAN
PALKAR
Digitally
signed by
AARTI
GAJANAN
PALKAR
Date:
2025.07.02
18:24:35
+0530

Dhanpatraj V. Bhansali H.U.F. ...Applicant/Petitioner
Versus
Ramakant S. Biyani & Ors. ...Respondents

Mr. Jaydeep Deo a/w. *Onkar Gawade, Advocates for Applicant/Petitioner.*

Mr. Mayur Khandeparkar a/w. *Sujit Lahoti & Aditya Sheth i/b. Sujit Lahoti & Associates, Advocates for Respondent No.1.*

Mr. Apoorva Kulkarni i/b. SSB Legal & Advisory, Advocate for Respondent No.2, 3bii & 5.

Ms. Minal Chandnani a/w. *Annie Cardoz, Advocates for proposed Respondent No.6.*

CORAM: SOMASEKHAR SUNDARESAN, J.
DATE : FEBRUARY 26, 2025

PC :

1. These proceedings entail an Application under Section 11 of the Arbitration and Conciliation Act, 1996 (***“the Act”***) as well as Petition

under Section 9 of the Act. The disputes and differences between the parties relate to a Partnership Deed dated December 28, 2007 (“**Agreement**”) and the arbitration agreement is contained in Clause 23 of the Agreement (at Page No. 40 of the Section 11 Application).

2. Today, when the matter is called out, Learned Counsel for the parties jointly submit that they would be willing to proceed to arbitration by a sole arbitrator, namely, Mr. Amrut Joshi, Learned Advocate of this Court, leaving it to the Arbitral Tribunal to determine what appropriate reliefs to be granted under the Section 9 Petition treating it as an application under Section 17 of the Act.

3. Commercial Arbitration Petition No. 300 of 2024 (“**Section 9 Petition**”) relates to the very same matter between the very same parties, seeking certain interlocutory protective reliefs. The Section 9 Petition shall be treated as an application under Section 17 of the Act by the arbitral tribunal appointed hereby. Given the efflux of time, the Applicant is at liberty to modify or mould the contents of Section 9 Petition for its consideration as a Section 17 Application.

4. In these circumstances, taking into account inputs from the parties both the Section 11 Application as well as the Section 9 Petition are hereby ***finally disposed of***, in terms of the following order:

A] Mr. Malcolm Siganporia, Learned 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;

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 and;

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.

F] The disputes between the parties covered by the proceedings being Suit No.389 of 2024 filed by Respondent No.1, Suit No.1603 of 2020 filed by the Respondent Nos.3

and 5, and Suit No. 1590 of 2021 filed by the Applicant, all of which are pending before the City Civil Court, Dindoshi are referred to the Arbitral Tribunal appointed hereby for adjudication.

G] The Applicant is at liberty to join proposed Respondent No.6, 7 and 8 in the Interim Application (L) No.31260 of 2024 as party respondents in the arbitration proceedings, it is up to the Applicant as *dominus litis* to convince the Arbitral Tribunal about the necessity of such respondents. Needless to say, all contentions of the aforesaid respondents with respect to joinder of parties are kept open to be decided by the Arbitral Tribunal.

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.]