

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
ARBITRATION APPLICATION NO. 245 OF 2024

M/s. Cloudstarts Technologies Pvt. Ltd. ...Applicant

Versus

The Brihanmumbai Electric Supply & Transport ...Respondent
Undertaking

Ms. Poornima Eapen, a/w *Abhishek Gupta, Nadiya Sarguroh & Allan David, i/b MZM Legal LLP, for the Applicant.*

Ms. Ravita Anchan, a/w *Zubair Zariwala, ZA Legal Associates, for Respondent.*

CORAM : SOMASEKHAR SUNDARESAN, J.

DATE : JANUARY 21, 2025

PC :

1. This is an Application under Section 11 of the *Arbitration and Conciliation Act, 1996* ("**Arbitration Act**") seeking appointment of an arbitrator in connection with disputes and differences in connection with an agreement.

2. Today, when the matter is called out, Learned Counsel for the parties are at ad idem that an arbitration agreement exists and disputes and differences between them may be referred to arbitration. Learned Counsel also submit that although the arbitration agreement provides for a three-member arbitral tribunal they would be willing to proceed

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with the arbitration before the Learned Sole Arbitrator appointed by this Court.

3. In these circumstances, considering the consent between the parties, without commenting on any facets of the merit of the case, this Application is ***finally disposed of*** in the following terms:-

- a) Justice Anil K. Menon, a former judge 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 Arbitration 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; and
- f) The parties have agreed that the venue and seat of the arbitration will be in Mumbai. It is clarified that it shall be open to the Arbitral Tribunal to conduct the proceedings online through electronic mode.

4. Needless to say the parties may take up such Application for interlocutory arrangements as they may desire before the Arbitral Tribunal appointed hereby.

5. 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.]