

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

ARBITRATION APPLICATION NO.315 OF 2025

Desai Construction Pvt. Ltd.

....Applicant

Versus

M/s Tarapur Environment Protection Society

....Respondent

Applicant was represented, but the appearance has not been submitted.

Mr. Ashish Verma, Advocate for Respondent.

CORAM: SOMASEKHAR SUNDARESAN, J.

DATE : OCTOBER 14, 2025

ORDER :

1. By an Order dated August 12, 2025, prayer seeking appointment of a Sole Arbitrator was allowed. Thereafter, pursuant to a praecipe, the reference to the Sole Arbitrator was modified by converting the Tribunal into a three-member Arbitral Tribunal by an order dated September 16, 2025, treating the Sole Arbitrator appointed on August 12, 2025 as a nominee arbitrator of the Respondent.

2. However, as it transpires, the praecipe had not been served on the Applicant. Learned Counsel for the Applicant submits today that he is ready and willing to nominate an arbitrator and the arbitrator

nominated by the Respondent and the nominee arbitrator named by the Applicant today could jointly appoint the presiding arbitrator to proceed further in the matter.

3. Against this backdrop, the arbitration agreement was examined. The parties have indeed agreed to a three-member Arbitral Tribunal. Since there is a controversy over the very composition of the Arbitral Tribunal at such a preliminary stage, primarily on the ground that the praecipe had not been served on the Respondent, it is in the interest of both parties to avoid future controversy.

4. Without getting into that controversy, and taking into account the conduct of the parties hitherto, it would be appropriate to solve the problem presented by the parties by recording that Mr. Minoo Siodia, Learned Advocate of this Court shall be the nominee arbitrator on behalf of the Applicant. The two arbitrators so appointed shall appoint a presiding arbitrator and the Arbitral Tribunal shall hear the matter.

5. In these circumstances, Mr. Minoo Siodia is the nominee arbitrator of the Applicant and Mr. Vyom Shah is a nominee arbitrator of the Respondent. The two arbitrators shall appoint the third arbitrator who shall act as the presiding arbitrator and the Arbitral Tribunal shall proceed further. The two nominee arbitrators are

requested to convene within a week of the upload of this order to appoint the third arbitrator within a week thereafter.

6. The Arbitral Tribunal is requested to convene within a week of being formed to issue further instructions on how to proceed further in the matter.

7. The Application is ***finally disposed of*** in the aforesaid terms.

8. A copy of this Order will be communicated to the nominee Arbitrators by the Advocates for the Applicant and Respondent within a period of one week from the date on which this order is uploaded on the website of this Court.

9. 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.

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.**]