

Digitally
signed by
SHRADDHA
KAMLESH
TALEKAR
Date:
2025.02.10
21:42:28
+0530

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
ARBITRATION APPLICATION NO. 341 of 2024
WITH
ARBITRATION PETITION (LODG.) NO. 31512 OF 2024

SATISH AMBE

....Applicant/Petitioner

Versus

A B CONSTRUCTION A.B. Construction
Through its Proprietor
Balkrishna Anant Kelambekar
& Anr.

....Respondents

Ms. Vishal C. Ghosalkar, *for Applicant/Petitioner.*

CORAM : SOMASEKHAR SUNDARESAN, J.

Date : January 24, 2025

P. C.

1. Arbitration Application No. 341 of 2024 us an Application under Section 11 of the Arbitration and Conciliation Act, 1996 (“*the Act*”), while Arbitration Petition (L.) No. 31512 of 2024 is a Petition under Section 9 of the Act. The Petitioner seeks to refer disputes and differences between the parties arising the Memorandum of Understanding dated October 14, 2017 (“*Agreement*”) executed with the Respondent and issued an invocation notice on September 30, 20224 to which there is no reply at all. It is seen from the record that not only the invocation notice served on the Respondent, but also

notice of these proceedings being listed today and the grant of ad-interim under the Section 9 Petition by order dated January 14, 2025 has also been intimated to the Respondent. Yet, none appears for the Respondent even today.

2. In these circumstances, being satisfied that an arbitration agreement is indeed in existence, and that it has been validly invoked, I see no fruitful purpose in keeping these proceedings pending further in this Court. Consequently, both the Application under Section 11 is hereby finally disposed of in the following terms :

- a. Mr. Shyam Kapadia, Learned Advocate of this Court (email : shyam.a.kapadia@gmail.com) 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 shall 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 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; and

3. As regards the Petition under section 9 of the Act, the ad-interim relief granted on the last occasion by order date January 14, 2025 is hereby converted into an interim relief and the Section 9 Petition shall be treated as an Application under Section 17 of the Act, to be considered by the Learned Arbitral Tribunal hereby appointed. It shall be open to the Learned Arbitral Tribunal to deal with the matter thereafter, including being free to add to

vary, modify or vacate the relief granted granted on such terms as it deems fit in accordance with the Act. With the aforesaid directions, both the Petition under Section 9, as well as the Application under Section 11 of the Act are hereby ***finally disposed of.***

4. 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.]