
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

COMM. ARBITRATION APPLICATION NO. 202 OF 2024
WITH
COMM. ARBITRATION PETITION NO. 382 OF 2024

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Metropolis Healthcare Ltd.

...Applicant

Versus

Sanjiban Hospital & Ors.

...Respondents

Mr. Vaibhav Shirish Kulkarni, *for Applicant/Petitioner.*

Mr. Rajesh H. Saravade, *for Respondents.*

CORAM : SOMASEKHAR SUNDARESAN, J.

Date : March 25, 2025

P. C.

1. This Application has been filed under Section 11 of the Arbitration and Conciliation Act, 1996 (*"the Act"*), seeking appointment of an arbitrator in connection with disputes and differences that are said to have arisen between the parties under an agreement dated February 17, 2021. The arbitration agreement is contained in Clause 17 (found at Page 36 of the Application-Exh A). In fact the disputes came to be settled by way of undated Consent Terms which are annexed to the Application. In the interest of brevity, the arbitration agreement is not being extracted here. Suffice it to say that this matter falls within the jurisdiction of this Court.

2. Be that as it may, since Learned Counsel for the Respondent submits that there is no quarrel about performance of the obligations but that the parties need to work out the terms on which the obligations can be discharged, no useful purpose would be served keeping the matter pending any further. Consequently, the Application is *finally disposed* of in the following terms :

A] Mr. Aniesh Jadhav, a 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 Petitioner within a period of one week from the date on which this order is uploaded on the website of this Court. The Petitioner 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;

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.

3. Considering the peculiar facts and circumstances of the case, the effect of this order shall be deferred by a period of six weeks from the date on which it is uploaded on the website, so that the parties could attempt to arrive at a settlement during such period of six weeks. Should no settlement be reached during such period, the arbitration may commence and the Section 9 Petition shall be treated as an Application under Section 17 by the arbitral tribunal. Both the captioned proceedings are ***finally disposed of*** in the aforesaid terms.

4. 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.

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.]