

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS COMMERCIAL DIVISION
COMMERCIAL ARBITRATION PETITION NO. 55 OF 2025
WITH
COMMERCIAL ARBITRATION PETITION NO. 69 OF 2025

Manish Sheth ...Petitioner

Versus

Ketan Sheth ...Respondent

Mr. Nishit Tanar, a/w Siddharth K., i/b Siddharth K. for the
Petitioner.

Mr. Mayuri D. Hatle, for Respondent.

CORAM : SOMASEKHAR SUNDARESAN, J.

DATE : MARCH 25, 2025

PC :

1. The Learned Arbitrator who was appointed pursuant to an order dated August 30, 2024, has resigned with effect from November 28, 2024. In these circumstances, these Petitions deserve to be dealt with in exercise of powers under Section 15 of the Arbitration and Conciliation Act, 1996.

2. It is now trite law that once a party's conduct necessitates the other party to approach the Section 11 Court, the party not agreeing to the resort to arbitration forfeits the right to have a say.

3. Regardless, considering that the arbitrator appointed has vacated office, it would only be appropriate to substitute the arbitrator, which I do in the following terms:

- a) Justice (Retired) S.J. Kathawalla, 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;

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43, Free Press House, 4th Floor,

215, Free Press Journal Marg,

Nariman Point, Mumbai-400 021

Email ID: skathawalla@gmail.com

- 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.

4. 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 Petitioner is at liberty to modify or mould the contents of Section 9 Petition for its consideration as a Section 17 Application.

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.]

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