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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**ORDINARY ORIGINAL CIVIL JURISDICTION**  
**IN ITS COMMERCIAL DIVISION**  
**COMM. ARBITRATION PETITION NO. 272 OF 2024**

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IDBI Bank Ltd.

...Petitioner

*Versus*

LTC Commercial Company Pvt. Ltd.

...Respondent

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**Ms. Diksha Tripathi** *i/b India Law LLP, for Petitioner.*

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**CORAM : SOMASEKHAR SUNDARESAN, J.**

**Date : January 22, 2025**

**P. C.**

1. This Petition is filed by the Petitioner-Bank invoking the provisions of Section 14 and Section 15 of the Arbitration and Conciliation Act, 1996 (“***the Act***”) seeking substitution of an arbitral tribunal on the ground that the arbitral tribunal has not been able to act without undue delay.

2. It is seen from the record that a Learned Single Judge of this Court had occasion to notice that service had indeed been effected on the Respondent and yet again, permitted issuance of a fresh notice on April 5, 2024. It is seen from the record that service had indeed been effected on the very address given to the Learned Arbitral Tribunal by the Respondent for correspondence. With the aforesaid backdrop, the matter is taken up for the final consideration.

3. The following facts would be relevant for purposes of disposing of this petition:

- a) By this Court's order dated April 11, 2022, a Learned Sole Arbitrator came to be appointed under Section 11 of the Act, 1996;
- b) The Learned Sole Arbitrator made the statutory disclosures as required under the Act, on August 24, 2022 and a preliminary meeting was held on September 3, 2022;
- c) On November 10, 2022 the Petitioner filed a Statement of Claim with a delay of 10 days and a Statement of Defence by the Respondent did not get filed for some time, necessitating two extensions;
- d) Eventually, a Statement of Defence was filed on February 28, 2023;
- e) The Petitioner appears to have taken objections to the delay in filing of Statement of Defence, and requested the Learned Sole Arbitrator to schedule a meeting to enable addressing the objection.

4. It appears to have been the case of the Petitioner that the Statement of Defence must not be permitted because of the delay and that the matter must proceed with the available documents.

5. Thereafter, it appears that no hearing has been scheduled and no meeting has been held in the matter, and even the Petitioner has not brought on record any activity carried out after April 12, 2023, before which date, he followed up with the arbitral tribunal.

6. Be that as it may, we are now at the end of January 2025 and there is no progress in the matter. To be fair to the Petitioner, the Petitioner filed this Petition in January 2024, which too, is about eight months after the last attempt to have a meeting convened. One year later, looking at the facts of the case and the desire of the Petitioner to continue with the matter, without intending to comment upon the conduct of any party, including the arbitral tribunal, and taking into account the nature and scale of the disputes involved, it would be appropriate to conclude that there is an undue delay in the conduct of the arbitral proceedings.

7. In these circumstances, without intending to comment upon any facet of the matter, and in particular, expressing no disrespect about the Learned Sole Arbitrator, it would be appropriate to allow the request for substitution of the Learned Arbitrator in the following terms :

- a. Ms. Arti Raghavan, 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 shall be communicated to the Learned Sole Arbitrator by the Advocates for the Petitioner within a period of one week from today. 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 Advocates for the Petitioner 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 Petition and a copy of the same shall be furnished by the Advocates for the Petitioner 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.

8. This Arbitration Petition is ***finally disposed of.***

9. 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.]