

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS COMMERCIAL DIVISION
COMM. ARBITRATION PETITION NO. 861 OF 2024

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TATA Motors Finance Limited

...Petitioner

Versus

1. Sandip Kuila C/o Niranjan Kuila

2. Gouri Panrya Kuila

...Respondents

Ms. Sheetal Prakash, a/w *Abhiishek Bhaduri, Abayjeet Khairwar and Arif Ansari, i/b Ravi Goenka, for Petitioner.*

Mr. Tejas Horambe a/w. *Ms. Naqqiya Saiffee and Ms. Bijal Soni i/b NAS Legal and Ms. Nishtha Malik and Ms. Sonali Kochar (through VC), for Respondents.*

CORAM : SOMASEKHAR SUNDARESAN, J.

Date : January 16, 2025

P. C.

1. This Petition is filed under Section 9 of the Arbitration and Conciliation Act, 1996 (“***the Act***”).

2. Today, when the matter is called out, Learned Counsel for Respondents submits that there is indeed an arbitration agreement dated February 25, 2022, but such arbitration agreement contemplates unilateral appointment of an arbitrator, which is contrary to the scheme of the Act. Consequently, he submits, that no arbitral tribunal in terms of the procedure envisaged in the said arbitration agreement can be appointed.

3. Since there is indeed an arbitration agreement, and it is now settled law that unilateral appointment is against the very scheme of the Act, it was put to the Counsel, if they would be willing to proceed to arbitration by a Learned Sole Arbitrator appointed by this Court. Learned Counsel for both sides graciously submit that if a Sole Arbitrator is appointed by this Court, they would submit their disputes and differences for resolution by such arbitrator.

4. Consequently, the following is passed :

- a. Ms. Aneesa Cheema, an 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. The contact details are set out below :

Office Address : Chambers of Mayur
Khandeparkar, 102, 1st floor, Oval House,
Old British Hotel Lane, Kala Ghoda,
Mumbai -400001
Email : aneesa.cheema@outlook.com

- 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 Arbitration 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; and
 - f. The parties have agreed that the venue and seat of the arbitration will be in Mumbai. It is clarified that it shall be open to the Arbitral Tribunal to conduct the proceedings online through electronic mode;.
5. This Application is ***finally disposed of*** in the aforesaid terms.

6. The interim relief granted in this Petition which is, in fact, filed under Section 9 of the Act, shall continue during the course of arbitration, of course, leaving it open to the arbitral tribunal to make such variations and modifications, if the parties so apply under Section 17 of Act.

7. 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.]