

## ORDINARY ORIGINAL CIVIL JURISDICTION

|                                       |                |
|---------------------------------------|----------------|
| The Bombay ST Xaviers College Society | ...Applicant   |
| Versus                                |                |
| Manisha Caterers & Ors.               | ...Respondents |

**Mr. Arsh Mishra** a/w. *Rahul Tervankar & Azam Shaikh,*  
*Advocates for Respondent Nos.1 and 2.*

**DATE : FEBRUARY 27, 2025**

1. On the last occasion, this matter was stood over since Learned Counsel for the Respondents stated that a Special Leave Petition was being pursued in the Supreme Court to challenge an Order passed by another bench of this Court in Writ Petition No.3674 of 2024 holding that the disputes were amenable to arbitration and not meant to be relegated to the Small Causes Court.

Aarti Palkar

3. Today, when the matter is called out, Learned Counsel for the Respondents seeks to raise a new objection. He would submit that the Application filed in this Court is signed by the Treasurer of the Applicant, and not by a Trustee of the Applicant. According to him, under the law governing the functioning of trusts, it is imperative that a trustee must sign the pleadings.

4. I am not impressed by this argument for purposes of determining the fate of this Application. This is in any case a matter of regulatory oversight of the Trust's operations, and ought not to distract the application of the jurisdiction of this Court under Section 11 of the Arbitration and Conciliation Act, 1996 ("*the Act*"). Section 11(6A) is a statutory requirement that this Court's examination must be confined to the existence of an arbitration agreement. In any case, who signed the Application was a fact well known to the Respondent all along, and even on the last occasion, so such objection had been raised.

5. If there is any procedural infirmity in the internal management of either party that is for parties to take up before appropriate forums. Being satisfied that an arbitration agreement is in existence, no useful purpose will be served in enabling yet another attempt to postpone recommencement of arbitration proceedings.

6. In these circumstances, this Section 11 Application is *finally disposed of*, in terms of the following order:

[A] Mr. Mandar Soman, 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. The details of the Learned Arbitrator are

as under:-

Address :- Office no 21,  
3<sup>rd</sup> Floor Bombay Mutual Building,  
P M Road, Fort,  
Mumbai-400001

Email Id : [mandar.soman82@gmail.com](mailto:mandar.soman82@gmail.com)

B] A copy of this Order will be communicated to the Learned Sole Arbitrator by the Advocates for the Applicant within a period of one week from the date on which this order is uploaded on the website of this Court. 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 Respondents;

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 and;

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.

7. 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.

8. 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.]**