

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

COMMERCIAL ARBITRATION PETITION NO.17 OF 2025

Dynasty Infrabuilders Pvt. Ltd.

...Petitioner

Versus

Kherfiagar Ninad Co-op. Housing Society Ltd.

...Respondent

Mr. Sharan Jagtiani a/w. *Ms Shraddha Achliya, Nishant Chothani, Nivit Srivastava, Sneha Patil & Yash Cheddha i/b. Maniar Srivastava Associates, Advocates for Petitioner.*

Mr. Karl Shroff i/b. *Sanskar Marathe, Advocate for Respondent.*

CORAM: SOMASEKHAR SUNDARESAN, J.

DATE : JANUARY 21, 2025

PC :

1. Today, when the matter is called out, Learned Counsel for the parties jointly submit that they have consensus to refer all disputes and differences between them to an arbitrator, who shall treat this Petition filed under Section 9 of the Arbitration and Conciliation Act, 1996 (*“the Act”*) as an application under Section 17 of the Act.

2. Without the need for a formal application being made under Section 11 of the Act, all disputes and differences between the parties, without expressing any opinion on merits one way or the other, shall

stand referred to Mr. Prathamesh Kamat, a Learned Advocate of this Court.

3. Needless to say, even the aspect of whether an arbitration agreement exists is a matter that they have agreed, would be left open for determination by the arbitral tribunal appointed hereby.

4. The parties shall approach the Learned Sole Arbitrator at a time convenient to him, no later than January 31, 2025, who shall then issue appropriate instructions to take the matter forward.

5. In these circumstances, the Petition deserves to be allowed, and consequently, we pass the following order:

a] Prathamesh Kamat, 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;

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 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 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; and

f] 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.

6. With the aforesaid directions, this Petition is *finally disposed of*.
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.]