



Vidya Amin

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

COMMERCIAL ARBITRATION PETITION (L) NO. 883 OF 2019

Sangeeta Aviation Services Pvt. Ltd. ... **Petitioner**
V/s.
Maharashtra Airport Development Co. Ltd. ... **Respondent**

Ms. Aparna Shinde for the petitioner.
Mr. Shardul Singh i/b. Robin George for the respondent.

CORAM : G.S.KULKARNI, J.
DATE : 13th August, 2019

P.C.:

Heard learned counsel for the petitioner and learned counsel for the respondent.

2. This is a Petition filed under section 9 of the Arbitration and Conciliation Act, 1996 (for short "the Act") whereby the petitioner has prayed for interim relief pending the arbitral proceedings. The disputes and differences between the parties have arisen under the Contract Agreement dated 6th February, 2017 which pertains to the provision of Airfield Ground Lighting (AGL) facilities at Shirdi Airport, District Ahmednagar, Maharashtra.

3. The case of the petitioner is that about 80% of the work is already completed and remaining 20% of the work is to be completed as averred in paragraph 22 of the petition. This contention of the petitioner is denied on behalf of the respondent. The case of the respondent is that the petitioner



could not complete the contractual work as per the terms and conditions of the contract and accordingly on 5th July, 2019 the contract came to be terminated. It is the case of the respondent that thereafter the petitioner simplicitor issued notice invoking arbitration. In the meantime, tenders were invited on 1st August, 2019 and bids are received and the same would be opened today by the respondent.

4. Learned counsel for the respondent intends to place on record reply affidavit on behalf of the respondent. Copy of the reply is served on the petitioner in the Court today.

5. After this Petition was heard for sometime, learned counsel for the parties are agreeable that the disputes between the parties be referred for arbitration by appointing an arbitral tribunal. The parties are also agreeable for this Petition to be converted into Section 17 Application. Accordingly the petitioner is permitted to convert this Petition as an Application under section 17 of the Act. The petitioner is also permitted to make any further necessary amendments to the Section 17 application if the petitioner intends so to incorporate.

6. In view of the consensus between the parties, the Petition would be required to be disposed of, leaving the parties to agitate their respective contentions before the arbitral tribunal. Hence, the following order:



ORDER

- (i) Mr. Justice A.M. Thipsay, Former Judge of this Court is appointed as a sole Arbitrator to adjudicate the disputes between the parties which have arisen under the Contract Agreement dated 6th February, 2017.
- (ii) The learned prospective sole arbitrator, before entering the arbitration reference, shall forward a statement of disclosure as per the requirement of Section 11(8) read with Section 12(1) of the Arbitration and Conciliation Act, 1996, to the Prothonotary & Senior Master of this Court, to be placed on record of this application with a copy to be forwarded to both the parties;
- (iii) The petitioner is permitted to convert this Petition with necessary amendment, if so required, into Application under section 17 of the Act to be filed before the arbitral tribunal. The respondents are permitted to file further reply to Section 17 Application, if so necessary;
- (iv) The fees payable to the arbitral tribunal shall be as prescribed under the Bombay High Court (Fees Payable to Arbitrators) Rules, 2018.
- (v) The arbitral tribunal shall endeavour to pass appropriate ad-interim/interim orders on the Section 17 Application as



expeditiously as possible and within a period of two weeks from the filing of Section 17 Application;

- (vi) All contentions of the parties including on merits of the disputes and including the respondents' counter claim are expressly kept open.
- (vii) The respondent is permitted to file its counter claim before the arbitral tribunal. The petitioner agrees that no formal procedure under the agreement would be insisted for filing of the counterclaim by the respondent;
- (viii) At the first instance, the parties shall appear before the prospective arbitrator within a period of 3 days from today on a date which may be mutually fixed by the prospective sole arbitrator;
- (ix) The petition is disposed of in the above terms. No costs.
- (x) Office to forward a copy of this order to the learned Arbitrator on the following address:

Ground floor, "Smriti" Building,
Dr. Ambedkar Road, Khar (West),
Mumbai – 400 052.
E-mail : amthipsay@gmail.com
(M): 9892349775

(G.S.KULKARNI, J.)