

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. (S). 449 OF 2015  
(Arising out of SLP(C) No.19934 of 2013)

YOGENDRA N. THAKKAR

Appellant(s)

VERSUS

JAYESH M. GANDHI & ORS.

Respondent(s)

O R D E R

Leave granted.

This appeal arises out of order dated 9<sup>th</sup> April, 2013 passed by the High Court of Judicature at Bombay whereby Arbitration Application No.244 of 2012 filed by the respondent has been allowed and the disputes between the parties referred for adjudication to a three-member Arbitral Tribunal comprising Mr. S.K. Shah and Mr. J.P. Devadhar, Former Judges of the High Court of Bombay, with a direction that the two arbitrators, so nominated, shall appoint the

presiding arbitrator.

When this appeal initially came up for hearing before us on 12<sup>th</sup> July, 2013, Mr. Ashok H. Desai, learned senior counsel appearing for the appellant, submitted, on instructions, that while the appellant was ready and willing for adjudication of the disputes between the parties by way of arbitration, the order passed by the High Court could be partially modified so as to appoint a Chartered Accountant as a sole arbitrator, instead of an Arbitral Tribunal comprising three former judges of the High Court. It was urged that a sole arbitration by a chartered accountant would not only ensure speedy disposal of the matter but would also be more affordable for the parties. We had on that statement issued notice to the respondent limited to the question whether the reference made by the High Court can be suitably altered to the above effect.

When the matter again came up for hearing on 14<sup>th</sup> January, 2015, learned counsel for the respondent filed a list of names of the Chartered Accountants of repute from Bombay and submitted that any one of them

could be appointed as a sole arbitrator to adjudicate upon the dispute. Mr. Mahesh Agarwal, learned counsel appearing for the appellant had taken day's time to take instruction about the choice of the arbitrator out of the panel, submitted by the respondent. He today submits, on instructions, that the appellant is agreeable to the appointment of Mr. Jayant P. Gokhale of M/s. Gokhale & Sathe & Company, 302/303 Udhog Mandir No.1, 7-C, Bhagoji Keer Marg, Mahim, Mumbai-400 016, as the sole arbitrator to adjudicate upon all the disputes that are sought to be raised by the respondent. In that view, therefore, we see no reason to decline the limited prayer made at the Bar for modification of the order passed by the High Court to the extent that instead of the Arbitral Tribunal comprising three former Judges of the Bombay High Court, the disputes in-question shall stand referred to Mr. Jayant P. Gokhale as a sole arbitrator in the case.

We accordingly modify the order passed by the High Court, to the extent indicated above, and dispose of this appeal, with the direction that the

Arbitrator shall be free to fix his own fees. The Registry is directed to send a copy of this order to the sole arbitrator for information and necessary action.

.....J.  
(T.S. THAKUR)

.....J.  
(R.K. AGRAWAL)

.....J.  
(ADARSH KUMAR GOEL)

NEW DELHI  
DATED 15<sup>th</sup> JANUARY, 2015.

ITEM NO.11

COURT NO.2

SECTION IX

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s). 19934/2013

(Arising out of impugned final judgment and order dated 09/04/2013 in AA No. 244/2012 passed by the High Court Of Bombay)

YOGENDRA N. THAKKAR

Petitioner(s)

VERSUS

JAYESH M. GANDHI &amp; ORS.

Respondent(s)

(interim relief and office report)

Date : 15/01/2015 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE T.S. THAKUR  
HON'BLE MR. JUSTICE R.K. AGRAWAL  
HON'BLE MR. JUSTICE ADARSH KUMAR GOEL

For Petitioner(s) Mr. Mahesh Agarwal, Adv.  
Mr. Abhinav Agrawal, Adv.  
Mr. E. C. Agrawala, Adv.

For Respondent(s) Mr. Pratap Venugopal, Adv.  
Ms. Surekha Raman, Adv.  
Mr. Gaurav Nair, Adv.  
Ms. Niharika, Adv.  
For M/s. K. J. John & Co.

UPON hearing the counsel the Court made the following

O R D E R

Leave granted.

In terms of the signed order, this appeal is disposed of.

"...In that view, therefore, we see no reason to decline the limited prayer made at the Bar for modification of the order passed by the High Court to the extent that instead of the Arbitral Tribunal comprising three former Judges of the Bombay High Court, the disputes in-question shall stand referred to Mr. Jayant P. Gokhale as a sole arbitrator in the case.

We accordingly modify the order passed by the High Court, to the extent indicated above, and dispose of this appeal, with the direction that the Arbitrator shall be free to fix his own fees. The Registry is directed to send a copy of this order to the sole arbitrator for information and necessary action."

(MAHABIR SINGH)  
COURT MASTER

(VEENA KHERA)  
COURT MASTER

(Signed order is placed on the file)