

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE SATHISH NINAN

THURSDAY, THE 30<sup>TH</sup> DAY OF JUNE 2022 / 9TH ASHADHA, 1944

AR NO. 112 OF 2022

**PETITIONER:**

SARENS HEAVY LIFT INDIA PRIVATE LIMITED  
REGISTERED OFFICE AT F-90/25, OKHLA INDUSTRIAL  
AREA, PHASE 1, NEW DELHI - 110 020 AND CORPORATE  
OFFICE AT 2ND AND 3RD FLOOR, PLOT NO. 19 & 20,  
JASK TOWERS, SECTOR 125, NOIDA, UTTAR PRADESH,  
201301, REPRESENTED BY ITS MANAGING DIRECTOR.  
BY ADV T.V.JAYAKUMAR NAMBOODIRI

**RESPONDENT:**

N V BROTHERS ENGINEERING PRIVATE LIMITED, HEAD  
OFFICE AT B21, B22, UTILITY BUILDING, KADALUNDI,  
KOZHIKODE, KERALA - 673302 REPRESENTED BY ITS  
DIRECTOR.

BY ADVS.

KUMAR A

P.J.ANILKUMAR (K/265/1988)

G.MINI (1748) (K/1748/1995)

P.S.SREE PRASAD (K/1181/2009)

JOB ABRAHAM (MAH/006468/2007)

THIS ARBITRATION REQUEST HAVING COME UP FOR ADMISSION  
ON 30.06.2022, THE COURT ON THE SAME DAY DELIVERED THE  
FOLLOWING:

Sathish Ninan, J.

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Arbitration Request No.112 of 2022

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Dated this the 30<sup>th</sup> day of June, 2022

**ORDER**

The petitioner is engaged in the business of Crane rental services, heavy lifting and engineering support. The respondent availed crane hiring services from the applicant on the terms and conditions agreed in the work order No.NVBEPL/SARENS/WO/FKM/2019-2020/001 dated 17.09.2019. Thereafter, the respondent issued various work orders to the petitioner. There has arisen disputes between the parties. Clause 7 of the work order provides for settlement of disputes by arbitration. The parties were not able to arrive at a consensus regarding appointment of an Arbitrator. It is accordingly that the petitioner has approached this Court.

2. Heard the learned counsel on either sides.

3. Prima facie it is seen that the work order contains arbitration clause providing for resolution of

disputes by arbitration. Challenge, if any, with regard to the jurisdiction and objections regarding existence or validity of the arbitration agreement, could be raised before the Arbitrator in terms of Section 16 of the Arbitration and Conciliation Act, 1996.

In the light of the above, leaving open the rights of the parties to agitate their contentions before the Arbitral Tribunal, the Arbitration Request is ordered as hereunder:

(a) Rtd. Justice N.Anil Kumar, VI/74-A, Tulsi House, Kothad P.O, Kochi - 682 027, is provisionally nominated as the Sole Arbitrator to adjudicate upon the disputes between the parties arising out of the work order.

(b) A copy of this order shall be communicated to the learned Arbitrator by the Advocate of the applicant within a period of one week from today. A copy of the order shall also be forwarded to the learned Sole Arbitrator by the Registry.

(c) The Arbitrator is requested to forward his statement of disclosure under Section 11(8) r/w Section 12(1) of the Act 3 of 2016.

(d) The registry shall place the disclosure statement before this Court, for confirmation of the appointment of the Arbitrator.

(e) The Arbitrator's fees shall be governed by the Kerala High Court (Fee Payable to Arbitrators) Rules, 2017.

(f) The arbitration costs and fees shall be shared equally.

Sd/-

**Sathish Ninan, Judge**

vdv

## **APPENDIX OF AR 112/2022**

### PETITIONER ANNEXURES

Annexure-A-1	TRUE COPY OF THE BOARD RESOLUTION DATED 07.03.2022
Annexure-A-2	TRUE COPY OF THE OFFER LETTER NO.S-19- 14277 ISSUED BY THE PETITIONER
Annexure-A-3	COPY OF THE WORK ORDER NO. NVBEPL/SARENS/WO/FKM/2019-2020/001 DATED 17.09.2019
Annexure-A-4	TRUE COPY OF THE AMENDMENT ORDERS DATED 10.02.2020,
Annexure-A-4 (A)	TRUE COPY OF THE AMENDMENT ORDERS DATED 09.03.2020
Annexure-A-4 (B)	TRUE COPY OF THE AMENDMENT ORDER DATED 11.04.2020
Annexure-A-4 (C)	TRUE COPY OF THE AMENDMENT ORDER DATED 11.05.2020
Annexure-A-4 (D)	TRUE COPY OF THE AMENDMENT ORDER DATED 11.06.2020
Annexure-A-4 (E)	TRUE COPY OF THE AMENDMENT ORDER DATED 11.08.2020
Annexure-A-4 (F)	TRUE COPY OF THE AMENDMENT ORDER DATED
Annexure-A-5	TRUE COPY OF THE STATEMENT OF ACCOUNT SHARED BY THE RESPONDENT ON 28.12.2020
Annexure-A-6	TRUE COPY OF THE LEGAL DEMAND NOTICE DATED 16.02.2021 ISSUED BY THE PETITIONER
Annexure-A-7	TRUE COPY OF THE DEMAND LETTER DATED 28.12.2021 ISSUED BY THE PETITIONER
Annexure-A-8	TRUE COPY OF THE EMAIL DATED 29.12.2021 ISSUED BY THE PETITIONER
Annexure-A-9	TRUE COPY OF THE REPLY MAIL DATED 06.01.2022 ISSUED BY THE OPPOSITE PARTY
Annexure-A-10	TRUE COPY OF THE NOTICE DATED 28.03.2022 ISSUED BY THE PETITIONER