

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
ARBITRATION APPLICATION NO. 126 OF 2015

Dinkarrair Hiralal Parekh & Ors.

..... Applicants

VERSUS

Rajendra Dinkarrair Parekh

..... Defendant

Mr.Siddharth Khattar, a/w. Mr.Amit Bhawe, i/b. Amit & Co. for the Applicants.

Mr.Kirti Munshi, a/w. Mr.Z.A.Zariwala, Ms.Shirau Hisariya, i/b.Thakore Jariwala & Associates for the Defendant.

CORAM : R.D. DHANUKA, J.

DATED : 17th JULY, 2015

P.C.

By this application filed under section 11 read with section 15 of the Arbitration and Conciliation Act, 1996, the applicant seeks appointment of arbitrator in view of the vacancy having arisen in view of the erstwhile arbitrator Shri Justice D.G.Karnik, former Judge of this court having reclused.

2. It is not in dispute that by an order in Misc.Application No.684 of 2006, the learned District Judge-3 has allowed the arbitration application filed under section 34 and has set aside the impugned award and has clarified that the parties may go for a fresh arbitration to seek adjudication in accordance with law. None of the parties have impugned the said order dated 20th July, 2013.

3. Learned counsel appearing for the applicant invited my attention to the notice dated 26th March, 2013 addressed to the respondent invoking arbitration clause contained in the partnership deed dated 1st April 2000 for resolution of

dispute and requesting the respondent to accept one of the names suggested in the said notice to act as an arbitrator. It is not in dispute that both the names suggested by the applicant in the said notice who were the designated arbitrators have also reclused to act as an arbitrator.

4. Learned counsel for the applicant submits that the applicant seeks to raise disputes also in respect of the disputes notified in the said notice dated 26th March, 2013 before the learned arbitrator.

5. At this stage, learned counsel appearing for the applicant state that the applicant would raise dispute in terms of clause 14 of the deed of partnership dated 1st April, 2000 before the learned arbitrator. Learned counsel appearing for the respondent has no objection if any such dispute in terms of clause 14 of the deed of partnership dated 1st April, 2000 is raised before the learned arbitrator. All other contentions of both the parties are kept open.

6. By consent, Shri Justice P.V.Hardas, former Judge of this Court, having his address at Flat No.304, Building No.A-1, Plot No.E/26, Millennium Park, MIDC, Chikhalthana, Aurangabad - 431001 is appointed as the sole arbitrator in place of erstwhile arbitrator appointed by the learned designate of the Chief Justice. Arbitration application is disposed of in the aforesaid terms. No order as to costs.

7. It is suggested by the learned counsel for the respondent that the learned arbitrator appointed by this order shall be requested to hold arbitral proceedings at Pune. Both the parties may request the learned arbitrator to hold the proceedings at Pune. It is however made clear that it would be for the learned arbitrator to decide the convenient place for holding the arbitral proceedings.

8. Both the parties have agreed to co-operate with each other and with the learned arbitrator in expeditious disposal of the proceedings and have agreed not to seek any unnecessary adjournments. Statement is accepted. Learned arbitrator is requested to dispose of the arbitral proceedings expeditiously and shall make an endeavour to dispose off the proceedings within six months from the date of the first meeting.

[R.D. DHANUKA, J.]