

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

WEDNESDAY, THE 29TH DAY OF JULY 2015/7TH SRAVANA, 1937

AR.No. 57 of 2014

APPLICANT:

**ROBIN MATHEW, S/O. K.G.MATHEW,
DOOR NO. 35/2566, SOUTH JANATHA ROAD,
PALARIVATTOM, KOCHI, PIN-682025.**

**BY ADVS.SRI.V.M.KURIAN
SRI.MATHEW B. KURIAN
SRI.K.T.THOMAS
SRI.ISAC T.PAUL**

OPPOSITE PARTIES:

- 1. M/S FRONTLINE ASSOCIATES,
39/3655A, FAITH TOWER,
NEAR SOUTH OVERBRIDGE,
ERNAKULAM, PIN-682016.**
- 2. MR. SURESH KUMAR, PARTNER,
M/S. FRONTLINE ASSOCIATES, 39/3655A,
FAITH TOWER, NEAR SOUTH OVERBRIDGE,
ERNAKULAM, PIN-682016.**
- 3. MR. MOHAN KUMAR, PARTNER,
M/S. FRONTLINE ASSOCIATES, 39/3655A,
FAITH TOWER, NEAR SOUTH OVERBRIDGE,
ERNAKULAM, PIN-682016.**
- 4. REEBOK INDIA COMPANY,
7TH FLOOR, UNITECH COMMERCIAL TOWER-II,
BLOCK-B, GREENWOOD CITY, SECTOR 45,
GURGAON, PIN-122001.**

**R1 TO R3 BY ADV. SRI.M.S.BREEZ
R4 BY ADVS. SRI.P.FAZIL
SRI.M.S.UNNIKRISHNAN
SMT.JAYASREE MANOJ**

**THIS ARBITRATION REQUEST HAVING BEEN FINALLY HEARD
ON 29-07-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

mbr/

APPENDIX

PETITIONERS' ANNEXURES:

- ANNEXURE 1 :** TRUE PHOTOCOPY OF THE AGREEMENT DATED 3.3.2010 EXECUTED BY THE APPLICANT AND THE OPPOSITE PARTIES.
- ANNEXURE 2 :** TRUE PHOTOCOPY OF THE LETTER DATED 13.8.2012 ISSUED BY THE 4TH OPPOSITE PARTY TO THE APPLICANT.
- ANNEXURE 3 :** TRUE PHOTOCOPY OF THE NOTICE DATED 27.1.2014 CAUSED TO BE ISSUED BY THE APPLICANT TO THE OPPOSITE PARTIES.
- ANNEXURE 4 :** TRUE PHOTOCOPY OF THE NOTICE DATED 10.2.2014 CAUSED TO BE ISSUED BY THE OPPOSITE PARTIES 1 TO 3 TO THE APPLICANT.
- ANNEXURE 5 :** TRUE PHOTOCOPY OF THE POSTAL ACKNOWLEDGEMENT CARD OF THE 4TH OPPOSITE PARTY.
- ANNEXURE 6 :** TRUE PHOTOCOPY OF THE NOTICE DATED 16.4.2014 ISSUED BY THE APPLICANT TO THE OPPOSITE PARTIES.
- ANNEXURE 7 :** TRUE PHOTOCOPY OF THE POSTAL ACKNOWLEDGEMENT CARD OF THE 1ST OPPOSITE PARTY.
- ANNEXURE 8 :** TRUE PHOTOCOPY OF THE POSTAL ACKNOWLEDGEMENT CARD OF THE 2ND OPPOSITE PARTY.
- ANNEXURE 9 :** TRUE PHOTOCOPY OF THE POSTAL ACKNOWLEDGEMENT CARD OF THE 3RD OPPOSITE PARTY.
- ANNEXURE 10:** TRUE PHOTOCOPY OF THE REPLY NOTICE DTED 29.5.2014 CAUSED TO BE ISSUED BY THE 4TH OPPOSITE PARTY TO THE APPLICANT.

RESPONDENTS' ANNEXURES: NIL.

//TRUE COPY//

P.S. TO JUDGE

mbr/

B. KEMAL PASHA, J.

.....
Arbitration Request No.57 of 2014
.....

Dated this the 29th day of July, 2015

ORDER

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This is an arbitration request based on Annexure-1 agreement entered into between the petitioner on the one part and respondents 1 to 3 on the other part. The 4th respondent is not a party to Annexure-1 agreement.

2. Through the agreement, the petitioner had obtained the status of a franchisee of the 1st respondent partnership firm of which respondents 2 and 3 are the partners. The 4th respondent is also one of the distributors of the 1st respondent partnership firm. *Inter alia*, the 4th respondent was given the powers to enhance the width of the footprint of the sports shoe as well as to change the model of the sportswear. It seems that the business model was changed. Respondents 1 to 3 had called upon the petitioner to migrate to the new business model. An ultimatum was given to the petitioner that in case the petitioner was not ready to migrate to the new model, his

franchise agreement would be terminated.

3. According to the petitioner, in case the petitioner is migrating to the new model, the petitioner has to incur huge financial loss. There is an existing dispute in the matter between the petitioner on the one part and respondents 1 to 3 on the other part. Of course, as far as the 4th respondent is concerned, the 4th respondent was only acting on the directions of the 1st respondent and nothing more. On going through the claim forwarded by the petitioner, it seems that the claim is as against respondents 1 to 3. The 4th respondent is impleaded only because of the fact that it was the 4th respondent, who was instrumental in changing the model. Apart from that, the 4th respondent has no liability in the matter. The claim is precisely as against respondents 1 to 3 and not against the 4th respondent.

4. A notice for invoking the arbitration clause in the claim was issued to the respondents. Respondents 1 to 3 have issued a reply. The notice issued to the 4th respondent has evoked no response.

5. As per clause 14 of Annexure-1 agreement, such disputes have to be referred for arbitration as per the provisions of the Arbitration and Conciliation Act, 1996. It seems that the petitioner has claimed an amount of ₹68,95,553/- from respondents 1 to 3. At the same time, respondents 1 to 3 have forwarded a claim of ₹18 lakhs as against the petitioner.

In the result, this Arbitration Request is allowed and Sri.E.Mytheenkunju, District Judge (Retired), Zamzam, Panmana PO, Chavara, Kollam-691 583 is appointed as the Arbitrator in the matter. It is made clear that as far as the 4th respondent is concerned, the petitioner has no claim of any amount from the 4th respondent. The claim of the petitioner is against respondents 1 to 3 only.

Sd/-
(B.KEMAL PASHA, JUDGE)

aks/29/07

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PA to Judge