

(1)

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

ARBITRATION APPLICATION NO. 2 of 2017

Mrs. Asma W/o Basit Shahin

...PETITIONER

VERSUS

Vilas S/o Rohidas Barwal

...RESPONDENT

Mr S.G. Dodya , Advocate for petitioner

CORAM : NITIN W. SAMBRE, J.

DATE :14th September, 2017

ORAL ORDER :

Heard learned Counsel for the applicant. In the wake of provision of section 10 of the Arbitration Act, he submits that the Court should appoint Arbitrator as notice issued to the respondent seeking nomination of his Arbitrator was not responded to.

2. The respondent, a partner to the partnership firm with the applicant, was initially sought to be served through Court process. However, attempt remained unsuccessful. Bailiff report speaks of the information received about his externment from his family members. As such, respondent was served under provisions of Order V Rule 20 of

(2)

C.P.C. by paper publication.

3. The present applicant pursuant to the clause No. 20 of the Partnership Deed dated 1st April 2012, has sought appointment of Mr Sachin Lathi, Chartered Accountant, as a sole Arbitrator.

4. Respondent though served by paper publication, has not responded to the same. In the wake of above, it will be appropriate, in my opinion, looking to the scheme of Section 11 of the Arbitration Act, to appoint Sole Arbitrator.

5. In view of this, I hereby appoint Advocate Shri A.P. Bhandari as an Arbitrator, who has consented for the same.

6. The professional fees of Arbitrator be borne by the present applicant till the appearance of non-applicant. If the non-applicant fails to appear before the Arbitrator, applicant shall bear entire cost of the arbitration.

(NITIN W. SAMBRE, J.)

pjm