

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

**ARBITRATION APPLICATION NO. 72 OF 2017
WITH
COMMERCIAL ARBITRATION PETITION NO. 250 OF 2017**

Inter Alia Hospitality LLP

..Applicant/Petitioner

Vs.

Sushil Madan & Ors.

.. Respondents

Mr.Vishal Kanade a/w. Ms. Smita Sawant i/b Dave and Co. for
applicant/petitioner.

None for respondents.

CORAM : K.R.SHRIRAM, J.

DATE : 29TH NOVEMBER 2017

P.C.

ARBITRATION APPLICATION NO. 72 OF 2017

1 The application is made under Section 11 of the Arbitration and Conciliation Act, 1996 (the said Act). Brief facts are as under :

Applicant and respondents had entered into a Deed of Partnership dated 1st July 2016 as per the terms and conditions mentioned therein.

Clause 12 of the Partnership Deed reads as under :-

12 ARBITRATION

Whenever there by any difference of opinion or any dispute between the partners, the partners shall refer the same to an arbitration of one person. The decision of the arbitration so nominated shall be final and binding on all partners, such arbitration proceedings shall be governed by Indian Arbitration Act, which is in force.

2 Disputes arose between the parties and applicant, by a letter dated 29th December 2016, informed respondents that the applicant wishes to exit from the partnership. In reply, respondents, by a letter dated 8th January 2017, have admitted that the Partnership Deed has been entered into between the parties but have made some counter allegations. The dispute in the matter is a dispute among the partners and it is more a dispute for statement of accounts.

3 For the present application, applicant has made allegations in application about misappropriation by respondents and naturally respondents have denied the same. But in view of these allegations of misappropriation and averments to the effect that applicant has lodged complaints under the provisions of Indian Penal Code against respondents, the stand taken by respondents is since there are allegations of fraud, the disputes are not arbitrable. Affidavit in reply has been filed but nobody is present for respondents today.

4 I am satisfied that (a) there is an arbitration agreement; and (b) the dispute is more of settlement of accounts and certainly the Arbitration Tribunal will be equipped to deal with the case of this nature.

5 In the circumstances, the application is allowed in terms of prayer clause (a) and the following order is passed :

(i) Mr.Mahesh Menon, an Advocate practicing in this Court having office at : 4, Gayatri, 2nd floor, Opp. Chembur Post Office, D.K. Sandu Marg, Chembur, Mumbai 400 071; Telephone No. 22-4311 200 (100 Lines); Mobile No.9821056508/9821256508, is appointed as Sole Arbitrator to arbitrate on disputes and differences including counterclaim, if any, arising out and/or in connection with and relating to Partnership Deed dated 1st July 2016.

(ii) The fees, administrative expenses, typing charges and venue expenses of the Arbitrator shall be shared equally between parties, i.e., 50% by applicant and 50% by respondents and the same will be costs in the arbitration proceedings.

(iii) Within three weeks of receiving a communication from the advocate for applicant and/or respondents, the Arbitrator shall give in writing, directly to parties disclosure as required under Section (11)(8) read with Section 12(1) of the said Act.

2 Arbitration Application accordingly disposed.

COMMERCIAL ARBITRATION PETITION NO. 250 OF 2017

3 Commercial Arbitration Petition is adjourned to 14th December 2017.

(K.R. SHRIRAM, J.)