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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

ARBITRATION PETITION No. 126 of 2017

M/s Orient Properties & Anr ..Petitioners.

Vs

Mr. Vilas Kantilal Parmar & Anr ..Respondents.

Mr. H.P. Vyas, Advocate for the petitioner.

None for the respondents.

CORAM : S.J. KATHAWALLA, J.

DATED :- 13th December, 2018.

P.C. :-

1 The Petitioners have filed the above Arbitration Petition against the Respondents under Section 11 of the Arbitration and Conciliation Act, 1996, as amended by the Arbitration and Conciliation (Amendment) Act, 2015 (the Act) for appointment of two arbitrators to resolve the disputes between the parties arising out of the deed of assignment dated 18th June, 2010. Clause 21 of the agreement pertains to arbitration and the same is reproduced hereunder :

“21. All disputes or differences which may arise by and between the parties hereto arising out of the terms hereof or the interpretation of the terms and conditions of these presents or the performance by either of the parties hereto of his/their obligations vis-a-vis the other party/hereto, shall be referred to Shri Rajiv V. Patel and

Shri Avinash Kulkarni Advocate as the Joint Arbitrators under the provisions of the Arbitration and Conciliation Act, 1996 and the decision of the said Arbitrators shall be final and binding on the parties thereto.”

2 Notice dated 15th June, 2017 invoking arbitration was forwarded by the petitioner to the respondents. However, the respondents failed to respond to the same. The petitioners were therefore constrained to file the above petition under Section 11 of the Act. Despite receipt of a copy of the above petition, the respondents have failed to remain present in Court by themselves and/or through their Advocate.

3 In these circumstances, I am satisfied that there exists a valid arbitration agreement between the parties. However, despite the agreement, the respondents have not come forward to refer the disputes to Arbitration. Hence, the following order :

- i. Mr.S.R. Sathe, Former Judge of this Court and Advocate Avinash Kulkarni, are appointed as Arbitrators to decide the disputes between the parties arising out of the deed of assignment dated 18th June, 2010. Both the Arbitrators shall mutually appoint the third Arbitrator who shall act as Presiding Arbitrator.
- ii. The learned Arbitrators shall file their disclosures before this Court on 10th January, 2019.
- iii. The venue of the arbitration shall be at Pune.

iv. The cost of arbitration shall initially be borne by the parties equally.

4 The petition is disposed off. However, stand over to 10th January, 2019 to take the disclosures on record.

(S.J. KATHAWALLA, J.)