

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
ARBITRATION APPLICATION NO.127 OF 2017**

Magna Opus Hospitality Pvt. Ltd.	...	Applicant
versus		
Sanjay Ruia and Associates	...	Respondent

Mr. V.Kapse I/by Mr. Pramod G. Rathane, for Applicant.
None for Respondent.

CORAM: S.J. KATHAWALLA, J.
DATE: 24th AUGUST, 2018

P.C.:

1. The Applicant – Magna Opus Hospitality Pvt. Ltd., has filed the above Arbitration Application against the Respondents under Section 11 of the Arbitration and Conciliation Act, 1996, as amended by Arbitration and Conciliation (Amendment) Act, 2015 (the Act) for appointment of a Sole Arbitrator to resolve the disputes that have arisen between the parties under the Letter of Mandate dated 07-07-2015 (Exhibit “A” to the Application).

2. The Applicant is a Company registered under the Companies Act, 1956. The Respondent is a proprietor of his Chartered Accountant Firm i.e. Sanjay Ruia and Associates. According to the Applicant, they were in need of about Rs.14 Crores for expansion of its business activities. The Applicant was therefore, trying to raise the finance through financial institutions. According to the Applicant, the Respondent introduced himself as an expert in raising funds because of his very good contacts with the banks and other non-banking financial institutions. The Respondent assured the

Applicant that he will raise funds for the Applicant, provided he is appointed as an Auditor of the Applicant's Company. Accordingly, a Letter of Mandate dated 07-07-2015 was executed between the Applicant and the Respondent. Clause 8 of the said Letter of Mandate pertains to arbitration, which is reproduced hereunder :

“8. All disputes, differences relating to this Letter or any interpretation thereof shall be referred to arbitration in accordance with the Indian Arbitration and Conciliation Act, 1996. The venue of arbitration shall be Mumbai. The Arbitral Award shall be final and binding on both the parties. This letter shall be governed by and construed in accordance with the laws of the Republic of India. ”.

4. Disputes arose between the parties, because of which the Applicant by their Advocate's letter dated 10th March, 2017 invoked the Arbitration Clause. The Respondent by his Reply dated 22nd March, 2017 admitted that he has executed the Letter of Mandate and has also set out his grievances in the said Letter. The Respondent did not suggest the name of any person to act as Arbitrator. In view thereof, the Applicant filed the above Arbitration Application seeking appointment of an Arbitrator. However, despite service none appear for the Respondent. Affidavit proving service dated 2nd February, 2018 is filed in Court. The Respondent has also not filed its Affidavit in Reply. The Respondent has also not nominated an Arbitrator. It is therefore clear that despite a valid and subsisting Arbitration Agreement, the Respondent has failed to appoint an Arbitrator to resolve the disputes. Hence, the

following order :-

(i) Mr. Minoo Siodia, Advocate is appointed as the sole Arbitrator to decide the disputes between the parties arising out of the Letter of Mandate dated 07-07-2015.

(ii) Mr. Minoo Siodia, shall file his disclosure under Section 11 (8) read with Section 12 (1) of the Arbitration and Conciliation Act, 1996 as amended by the Arbitration and Conciliation (Amendment) Act, 2015 (3 of 2016) within a period of one week from today.

(iii) The parties and/or their Advocates shall appear before the learned Arbitrator in his chambers, on 3rd September, 2018 at 5.00 p.m. and obtain necessary directions.

(iv) The learned Arbitrator shall not grant adjournments to the parties unless absolutely necessary.

(v) All contentions of the parties are kept open.

(vi) The cost of arbitration shall initially be borne by the parties equally.

(vii) The venue of Arbitration shall be at Mumbai.

(viii) In view of this order, the above Arbitration Application is disposed of.

(x) A copy of this order shall be forthwith served on the Respondent by Speed Post A.D.

(S.J.KATHAWALLA, J.)