

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
ARBITRATION APPLICATION NO. 119 OF 2017**

Momentum Consulting Pvt. Ltd.
& Anr.

....Applicants

Vs.

Saffron Industries Ltd.
(Formerly known as Madhyadesh
Paper Ltd.) & Anr.

....Respondents

Ms.D.H. Nanavati for applicants.

None for respondents.

**CORAM : K.R.SHRIRAM, J.
DATE : 4TH SEPTEMBER, 2018**

P.C.:

1 This application is under Section 11 of the Arbitration and Conciliation Act, 1996 (the said Act).

2 Applicant No.1 is engaged in the business of providing advisory services for dealings and negotiations with various banks and financial institutions. It is stated that the at the request of the company, applicant No.1 acted as advisor to respondent for negotiating a compromise with its secured lender the State Bank of India. Engagement of applicant No.1 was as per the letter of Engagement dated 5th April 2013. The Agreement provided as under :-

“GOVERNING LAW AND JURISDICTION

This engagement letter is governed by, and shall be construed in

accordance with, the laws of India. All disputes to be determined by arbitration in Mumbai according to The Arbitration and Conciliation Ordinance, 1996 as in effect.”

3 Ms.Nanavati states that a copy of this application has been served on respondent on or about 25th June 2017 and undertakes to file an affidavit of service within one week from today. Undertaking accepted.

4 Prior to filing this application, applicants have filed a suit in Bombay City Civil Court at Mumbai being Summary Suit No.124 of 2015. The Summons for Judgment taken out by applicants in that suit came to be dismissed because the Agreement provided for dispute between the parties to be referred to arbitration.

5 It is also stated that respondent had filed a suit before the Civil Judge, Junior Division, Nagpur for recovering certain amounts against applicants. In that suit, applicants had taken out an application under Section 8 of the said Act which was rejected. Against that order, applicant had preferred a Civil Revision Application being Civil Revision application No.129 of 2017 in the High Court of Judicature of Bombay (Nagpur Bench). This Court, while allowing the Civil Revision Application, by its order dated 19th January 2018 has recorded that respondent had expressed its willingness to go before the Arbitrator for adjudication of the claim made by respondent before the Civil Judge, Junior Division, Nagpur.

6 In view of above, I am satisfied that there is an arbitration agreement between the parties. Ms. Nanavari states that despite a letter dated 29th March 2018, copy whereof is annexed to the application, by which applicants have given notice of arbitration for referring disputes to arbitration, respondent has not even replied thereto. Therefore, the following order is passed :-

O R D E R

(a) Mr.Anil D'souza, an Advocate practicing in this Court having office Address : Chamber No.7, 1st floor, Examiner Press Building, Dalal Street, Fort, Mumbai 400 001, Mobiel No. : 9892098346; Email ID : anil.dsouza@gmail.com, is appointed as sole Arbitrator to arbitrate on disputes arising out of and/or in connection with and/or relating to the Agreement reflected in the letter of engagement dated 5th April 2013 read with letter dated 10th May 2013, including counterclaim, if any.

(b) The fees, administrative expenses, typing charges and venue expenses of the Arbitrator shall be shared equally between parties and the same will be costs in the arbitration proceedings.

(c) All rights and contentions of parties are kept open except challenging the jurisdiction of the arbitrator.

(d) Within two weeks of receiving a communication from the advocate for petitioner and/or respondent, 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.

7 Arbitration Application accordingly disposed.

(K.R. SHRIRAM, J.)

**Shraddha
Kamlesh
Talekar**

Digitally signed by
Shraddha Kamlesh
Talekar
Date: 2018.09.06
12:44:39 +0530