

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

ARBITRATION APPLICATION NO.202 OF 2017

Kotak Mahindra Old Mutual Life Insurance)
Limited)....Applicant
V/s.

Abdur Rauf Abdur Rashid Qureshi & Ors.)....Respondents

Mr.Shashank V.Choudhari I/by Sachin Masurkar for the applicant.
None for respondents.

CORAM : K.R.SHRIRAM,J
DATE : 24.9.2018

P.C.:-

1. This is an application for appointment of Arbitrator under Section 11 of the Arbitration & Conciliation Act 1996.

2. The applicant and respondent had entered into Leave & License Agreement dated 6.11.2016 under which the applicant had given a non-refundable security deposit of Rs.10,00,000/- plus Rs.14,60,000/-. The applicant has vacated the premises and surrendered the same to respondent but respondent despite notice has not returned the deposit. Mr.Masurkar for the applicant states that some part of the security deposit has been adjusted against rent but there is still an amount of about Rs.16,00,000/- to be returned by respondent.

3. On 24.1.2018 this court was pleased to note that respondent despite service, has not remained present and a fresh notice was given. Mr.Masurkar states that fresh notice has been given but still respondent has chosen not to remain present.

4. By a notice dated 5.7.2017 the applicant has invoked arbitration to which also there has been no reply.

5. Clause 25.3 of the Leave & License Agreement dated 6.11.2016 provides for arbitration and it reads as under :-

“All such disputes shall be referred to and finally resolved by arbitration by a sole arbitrator to be appointed jointly by the parties. In case the LICENSORS and the LICENSEE are not able to jointly appoint a sole arbitrator then the provisions of the Arbitration and Conciliation Act, 1996 relating to the appointment of arbitrator will apply. The arbitration proceedings shall be conducted in accordance with the Arbitration and Conciliation Act, 1996. The language of the arbitration shall be English. The place of arbitration shall be Mumbai.”

6. In the circumstances, as I am satisfied that an arbitration clause does exist and the dispute is only relating to refund of security deposit, the arbitrability of the dispute is also not in question.

7. In the circumstances, Shri B.M.Jethani, retired Sessions Judge of City Civil Court, Mumbai, is appointed as sole Arbitrator to

arbitrate on the dispute arising out of and in connection with and in relating to the Leave & License Agreement dated 6.11.2016.

8. The parties shall share the Arbitrator's fees, expenses, administration charges and typing charges if any, equally and the same shall be cost in the arbitral proceeding.

9. Arbitrator to make disclosure in writing directly to the parties as required under Section 11(8) read with section 12(1) of the said Act within two weeks of receiving communication from either of the parties forwarding a copy of this order.

10. Application accordingly disposed.

Jahagirdar
Kiran
Ganesh

Digitally
signed by
Jahagirdar
Kiran Ganesh

Date:
2018.09.29
15:57:10
+0530

(K.R.SHRIRAM,J)