

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

CIVIL APPLICATION NO.14610 OF 2019

IN ARB/9/2005

NATWARLAL CHANDULAL SHAH A HUF T/R IT S KARTA,

PINALKUMAR NATWARLAL SHAH

VERSUS

VIJAYKUMAR RAMANLAL SHAH A HUF REPRESENTED BY IT S

KARTA V.R. SHAH (DIED) T/H EXI

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Advocate for Applicant : Mr.A.M.Gholap

Advocate for Respondent No.1 : Mr.R.L.Kute

Advocate for Respondent Nos.3 to 5 : Mr.S.S.Manale

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CORAM : RAVINDRA V. GHUGE, J.

DATE : 18th December, 2019.

PER COURT :-

1. On 11/12/2019, I had passed the following order:-

"1. In Arbitration Application No.9/2005, the learned Advocate for the applicant submits his service affidavit stating that the copy of this civil application was served on respondent No.2

NarendraKumar. He received the copy and acknowledged such receipt, but did not affix his signature.

2. It is informed that respondent No.2 is the contesting party.

3. The learned Advocate for the applicant submits that he can serve respondent No.2 by substituted service through paper publication in "Daily Sakal" Jalna Edition.

4. In view of the above, issue notice in the civil application to respondent No.2, returnable on 18/12/2019, in the "Urgent Orders Category". The notice shall be published by the applicant in "Daily Sakal", Jalna Edition at least 3 days prior to the returnable date in this matter."

2. The Applicant has got the notice published in Daily Sakal, Jalna Edition. Respondent No.2 NarendraKumar Ramanlal Shah has been served through paper publication. No appearance has been entered either in-person or through an Advocate.

3. Mr.Kute, the learned Advocate, appears on behalf of respondent No.1, who is the real brother of

respondent No.2, and frankly submits that his client cannot associate himself with respondent No.2. Mr.Manale, the learned Advocate, appears on behalf of respondent Nos.3 to 5.

4. The learned Advocates for the above appearing parties jointly submit that Justice P.R.Bora (former Judge, Bombay High Court), who is a resident of Aurangabad, be appointed as the sole Arbitrator in place of Justice A.B.Naik (former Judge, Bombay High Court), who has expressed his inability to continue as an Arbitrator under Section 14(1)(b) of the Arbitration and Conciliation Act, 1996.

5. In view of the above, this civil application is allowed. Justice P.R.Bora is appointed as a sole Arbitrator. The litigating sides shall contact the learned Arbitrator so as to settle the terms of payment of fees. Needless to state, all the parties shall equally share the payment of fees of the Arbitrator.

6. The applicant shall deposit processing fee of Rs.5,000/- in this Court on or before 10/01/2020 so as

to enable the office to process the arbitration papers to Justice P.R.Bora.

7. It is made clear that respondent No.2 Narendrakumar Ramanlal Shah, shall be precluded from raising any objection as regards the appointment of Justice P.R.Bora as the sole Arbitrator.

(RAVINDRA V. GHUGE, J.)

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