

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

ARBITRATION PETITION (ST.) NO. 13247 OF 2019

Smt. Madhuri Subhash Sangle & Ors. ... Petitioners

V/s.

Mr. Tejpal Navalmal Jain (HUF) & Ors. ... Respondents

Mr. Rohan P. Surve a/w. Mr. Kunal Naik for the Petitioners.

Mr. Pranav Avhad for the Respondent no.1.

Mr. Balwant Salunkhe i/by Mr. Tejash Dubey for the Respondent nos. 6, 7 & 8.

CORAM : G. S. KULKARNI, J.

DATE : 25th SEPTEMBER, 2019.

PC:-

1] Leave to amend to incorporate reference to sections 14 and 15 in the cause title. Amendment be carried out forthwith.

2] Learned counsel for respondent nos. 1 and 9 has served copy of the reply affidavit on the petitioner.

3] Heard learned counsel for the petitioners and learned counsel for the respondent nos. 6, 7 and 8. Other respondents are served. Affidavit of service is already placed on record.

4] Earlier this Court had heard this petition on 28 August 2019 and thereafter on 11 September 2019 when detailed orders were passed putting the parties to a notice that on the adjourned date of hearing this petition would be heard without any further adjournment. Accordingly, I have heard learned counsel for the parties.

5] This is a petition whereby the petitioner prays for appointment

of a substitute arbitrator as the arbitrator who was appointed by this Court by an order dated 17 December 2018 passed in Arbitration Petition No. 57 of 2018 alongwith Arbitration Petition No. 100 of 2018, by his communication dated 27 February 2019, in some unfortunate circumstances, has resigned from the arbitral proceedings.

6] As the learned arbitrator was appointed under the orders passed by this Court considering the decision of this Court in SAP India Private Limited Vs. Cox & Kings Limited ¹ the only remedy available for the petitioner is to approach this Court in a petition filed under section 14 and 15 of the Act, as the arbitrator who has resigned was appointed by the Court.

7] Paving perused the averments as made in the petition and having heard learned counsel for the parties, in my opinion, the petition would be required to be allowed and a substitute arbitrator would be required to be appointed.

8] Accordingly the petition is disposed of by the following order :

ORDER

i) Smt. Justice Shalini Phansalkar-Joshi, Former Judge of this Court, is appointed as a substitute sole Arbitrator to arbitrate the disputes and differences between the parties under the partnership deed dated 30.04.2008 r/w. Partnership deed dated 14.08.2009, 31.12.2009,

¹Comm. Arbitration Petition (L.) No. 351 of 2019 dtd. 30/04/2019

02.04.2011 and 12.10.2012.

- ii) The learned substitute sole Arbitrator, fifteen days before entering the arbitration reference, shall forward a statement of disclosure as per the requirement of Section 11(8) read with Section 12(1) of the Arbitration and Conciliation Act, 1996, to the Registrar Judicial-I of this Court, to be placed on record of this petition with a copy to be forwarded to both the parties.
- iii) Learned arbitrator so appointed shall proceed with the arbitration from the stage the proceedings had reached before the arbitration before the earlier Arbitral Tribunal.
- iv) All contentions of the parties are expressly kept open.
- v) At the first instance, the parties shall appear before the prospective Arbitrator within 15 days from today on a date which may be mutually fixed by the prospective sole arbitrator;
- vi) Office to forward a copy of this order to the learned Arbitrator on the following address.

Address: Bunglow No.12,
Bhagya Chintamani Society,
Opp. Kachra Depot, Paud Road,
Kothrud, Pune 411 038.
Mob No. 9657188676
Email- phansalkarjoshi@gmail.com

(G.S.Kulkarni, J.)