

Vidya Amin

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

ARBITRATION PETITION NO. 116 OF 2019

Ramanlal Harakchand Gundecha	... Petitioner
V/s.	
Rajendra Shantilal Gundecha	... Respondent

Mr. S.N. Chandrachood for the petitioner.
Mr. Harshad Sathe for the respondent.

**CORAM : G.S.KULKARNI, J.
DATE : 16 October, 2019**

P.C.:

Heard learned counsel for the petitioner and learned counsel for the respondent.

2. This is a Petition filed under section 11 of the Arbitration and Conciliation Act, 1996 (for short, “the Act”) whereby the petitioner has prayed for appointment of an arbitral tribunal to adjudicate the disputes and differences, which are stated to have arisen between the parties under the Deed of Retirement and Partnership dated 27 June 2008 (for short “the Deed”). There is no dispute on the existence of the Arbitration agreement, which is contained in Clause 19 of the Deed, which reads thus:

“19. Arbitration:

In the case of any dispute arising out of partnership, the name shall be referred to the arbitrator/s agreed by all the parties and the decision of the Arbitrator/s shall be binding on all the partners. The Arbitration will be as per the Arbitration & Conciliation Act, 1996.”

3. The respondent has appeared. Reply affidavit dated 14 October 2019 of the respondent is also tendered.
4. The principal contention as urged by the learned counsel for the respondent to oppose this petition is that the partnership in question is not undertaking any business since 2003 and, therefore, there cannot be any dispute between the parties.
5. However, at the same time, it is not in dispute that the partnership is dissolved in view of the notice dated 19 June 2019 issued by the petitioner to the respondent. It is also not in dispute that the partnership has certain assets and more particularly one gala at the market Yard, Gultekeli at Pune as also the accounts of the firm are not settled between the parties.
6. The points of opposition as urged on behalf of the respondent are issues on merits, which would be required to be dealt in the arbitral proceedings. As there is no dispute in regard to the arbitration agreement as also there is appropriate invocation of the arbitration agreement by notice dated 19 June 2019 issued on behalf of the petitioner, in my opinion, the petition is required to be allowed by appointing a sole arbitrator. Hence, the following order:

ORDER

- (i) Mr. Rajendra B. Agarwal, Retired District Judge is appointed as an arbitrator to adjudicate the disputes between the parties which have arisen under the Deed of Retirement and Partnership dated 27 June 2008.
- (ii) The learned prospective sole arbitrator, ten 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), to be placed on record of this application with a copy to be forwarded to both the parties;
- (iii) The fees payable to the arbitral tribunal shall be as prescribed under the Bombay High Court (Fees Payable to Arbitrators) Rules, 2018.
- (iv) At the first instance, the parties shall appear before the prospective arbitrator within 10 days from today on a date which may be mutually fixed by the prospective sole arbitrator;
- (v) All contentions of the parties are expressly kept open;
- (vi) Office to forward a copy of this order to the learned Arbitrator on the following address:

Flat No. 2, Building no. A,

Maval Flats, Moledina Road,
Behind West End Talkies Bus Stop,
Opp. SGS Mall, Camp,
Pune – 411 001.
(M) : 9850486277
E-mail : rajendra.agrawal1958@gmail.com

6. The petition is disposed of in the above terms. No costs.

(G.S.KULKARNI, J.)