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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
ARBITRATION APPLICATION NO.265 OF 2018**

Gokuldas Chimandas Kinger & Anr. ..Applicants
Vs.
Ashok Chimandas Kinger & Ors. ..Respondents

Ms.Asha Bhuta for Applicants.
Mr.Nachiket Jaywant for Respondent Nos.1 & 2.

**CORAM : G.S. KULKARNI, J.
DATE : 12th FEBRUARY, 2019**

P.C.:

Heard learned Counsel for the applicants and learned Counsel for respondent Nos.1 and 2. Respondent No.3 though served is not appearing.

2. This is an application under Section 14 of the Arbitration and Conciliation Act, 1996 (for short, "the ACA") whereby the applicants are seeking substitution of an arbitrator to replace the earlier learned Arbitrator Mr.S.R. Shah who expired in June 2016.

3. By an order dated 20 March 2012 passed in Suit No.1785 of 1984, by consent of the parties, Mr.S.R. Shah, Retired Judge of Bombay City Civil Court was appointed as a sole arbitrator to decide all the disputes between the parties under the deed of partnership. The applicants are the brothers.

4. After this application was heard for some time and on the earlier occasion, learned Counsel for the applicants and learned Counsel for the respondent Nos.1 and 2 are agreeable that a substitute arbitrator be appointed in the above circumstances. In view of this consensus, the following order is passed:-

ORDER

- (i) Mr.Anil R. Mehta, Advocate, is appointed as a sole Arbitrator to arbitrate all the disputes between the parties.
- (ii) The learned prospective 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 Prothonotary & Senior Master of this Court, to be placed on record of this application with a copy to be forwarded to both the parties;
- (iii) All contentions of the parties on merits of the matter are expressly kept open.
- (iv) The learned Arbitrator shall decide the matter as expeditiously as possible and within a period of one year as provided under Section 29(A) of the ACA.
- (v) The parties are at liberty to place the papers and proceedings on the record of the former arbitrator before the newly constituted arbitral tribunal if the same are available as also the arbitral tribunal can

proceed from the stage the proceedings were left and/or had reached.

(vi) Office to forward a copy of this order to the learned Arbitrator on the following address:

address: Prakash Chambers, Chamber No.1, Mezannine Floor,
77, Nagindas Master Road, Fort, Mumbai – 400 023.

(vii) The application is disposed of in the above terms. No costs.

[G.S. KULKARNI, J.]