

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
COMM. ARBITRATION APPLICATION NO.191 OF 2019**

Manish Shah (HUF) ... Applicant
versus
White Hill Production India Pvt. Ltd. ... Respondent

Mr. Kunal Parekh i/by Dua Associates, for Applicant.
None for Respondent.

CORAM: S.J. KATHAWALLA, J.

DATE: 11st SEPTEMBER, 2019

P.C.:

1. The Applicant has filed the above Arbitration Application against the Respondent under Section 11 of the Arbitration and Conciliation Act, 1996, as amended by Arbitration and Conciliation (Amendment) Act, 2015 (the Act) for appointment of a sole arbitrator to resolve the disputes that have arisen between the parties under the Deed of Assignment dated 27th June, 2018.

2. Clause 25 of the Deed of Assignment dated 27th June, 2018 pertains to arbitration and is reproduced hereunder :

“25. In any of any dispute or differences between the parties, the parties shall refer the matter to the arbitration of a sole arbitrator. If the parties agree upon the sole arbitrator or to a panel of three arbitrators, one to be appointed by each party and the third arbitrator is appointed by the other two

arbitrators as presiding arbitrator. The Arbitration shall be at Mumbai and shall be governed by the provisions of Arbitration and Conciliation Act, 1996 or any statutory modification or enactment thereof for the time being in force."

3. Since disputes arose between the parties, the Applicant vide a letter dated 11th July, 2018 sent to the Respondent invoked the arbitration agreement, to which the Respondent did not respond. Again on 23rd July, 2018 the Applicant sent a reminder to the Respondent. The Respondent once again failed to respond to the said reminder. The Applicant was therefore, constrained to file the above Arbitration Application seeking appointment of the sole arbitrator in the matter.

4. A copy of the above Arbitration Application is served on the Respondent on 22nd September, 2018. However, none appear for the Respondent. The Respondent has not agreed to the names proposed by the Applicant and has also not suggested the name of any other person to act as Arbitrator in the matter. The Respondent has also failed to file its Affidavit in Reply. It is therefore, clear that despite agreement, the Respondent has failed to appoint an Arbitrator to resolve their disputes. Hence, the following order :

- (i) Mr. Minoo Siodia, Advocate & Solicitor is appointed as the sole Arbitrator to decide the disputes between the parties arising out of the Deed of Assignment dated 27th June, 2018.
- (ii) The learned Arbitrator shall within a period of two weeks from today file his disclosure under Section 11 (8) read with Section 12 (1) of the Arbitration and Conciliation Act, 1996 as amended by the Arbitration and Conciliation (Amendment) Act, 2015 (3 of 2016) with the Prothonotary and Senior Master of this Court.
- (iii) The venue of Arbitration shall be at Mumbai.
- (iv)) The parties and/or their Advocates shall appear before the learned Arbitrator in his chambers, on 1st October, 2019 at 5.00 p.m. and obtain necessary directions.
- (v) The learned Arbitrator shall endeavour to pass his final Award within a period of six months from the date of this order.
- (vi) The learned Arbitrator shall not grant adjournments to the parties unless absolutely necessary.
- (vii) All contentions of the parties are kept open.
- (viii) The fees payable to the arbitral tribunal shall be as prescribed under the Bombay High Court (Fees Payable to Arbitrators) Rules, 2018.
- (ix) The cost of arbitration shall initially be borne by the parties

equally.

2. The above Arbitration Application is accordingly disposed of.

3. The Advocate for the Applicant shall forward a copy of this order to the learned Arbitrator - Mr. Minoo Siodia, Advocate and Solicitor. They shall also forward a copy of this order to the Respondent by Speed Post A.D. and by email at their last known address.

(S.J.KATHAWALLA, J.)