

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

MISC. CIVIL APPLICATION (ARBN.) 876 OF 2018

Gaurang s/o. Anubhava Shiksharathi,
aged about 31 yrs, Occ. Business,
R/o. Flat No. 205, Wing 1, Rajat Heights,
Near Wox Collers, Koradi Road,
Nagpur 440030

..... **PETITIONER**

...VERSUS...

1. Micky Joe Thomas s/o. Thomas Jhon
Pallekudy,
Aged about 33 yrs, Occ. Business,
R/o. 'Woodsville', Flat No. 701,
Building C-4, Phase 1, Borhadewadi,
Pune 412 105.
2. Sandeep s/o. Vijaypal Verma,
Aged about 35 years, Occ. : Business,
~~R/o. Swami Sadan-III, Hazari Pahad,~~
~~Nagpur-440-007.~~
R/o. Flat No. 601/A, A-Wing,
Green Heritage, Sector-20,
Kharghar, Navi Mumbai 401 210
(amended as per Registrar's order
dtd.25.4.2019)
3. Ashwajeet s/o. Pralhad Dhoke,
aged about 36 yrs, Occ. Business,
R/o. Plot No. 24, Priti Society,
Ganga Nagar, near Fire Engineering College,
Katol Road, Nagpur 440 013.
4. Pramod s/o. Ramlal Gabhane,
aged about 35 yrs, Occ. Business,
R/o. Plot No. 57, Vidhya Nagar, Wathoda
Layout, Nagpur 440 009.

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5. Divyesh s/o. Jashwantra Shah,
aged about 35 yrs, Occ. Business,
~~R/o. Plot No.25, Flat No.103,
Yamunashree Apartments,
Near Navasha Maruti/LG Showroom,
Singhaghad Road, Pune City, Pune,
Maharashtra 411041.~~

At 4th Floor, Dixit Apartment,
Law College Road, Next to
Nirmiti Showroom, Nal Stop,
Pune 411 004.

*(amended as per Court's
order dated 20.1.2020)*

... **RESPONDENTS**

Mr. V. Bharadwaj, counsel for petitioner.
None for the respondents.

CORAM: ROHIT B. DEO, J.
DATE :07.12.2020

ORAL JUDGMENT:

Heard.

2. None appears on behalf of the respondents though duly served.

3. The petitioner contends that he and respondents 1,2 and 5 were partners of "ILLUSIONS" a registered partnership firm engaged in the business of Coffee Shop and Restaurant. In October, 2013 a decision was mutually taken that the respondent 5 shall retire and respondent 3 and 4 herein shall be inducted. A deed of re-constitution

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of firm was executed on 8.11.2013.

4. The petitioner contends that while the deed of re-constitution of partnership was reduced into writing and signed by all the partners, the respondent 5 herein refused to sign the said document. In view of refusal, the contention of the petitioner is that impliedly partnership firm exists with six partners including the newly inducted partners.

5. Disputes having arisen between the parties, Special Civil Suit No.289/2015 was filed by the petitioner. The respondent 2 herein preferred a application under Section 8 of the Arbitration and Conciliation Act. Vide order dated 15.10.2016 the said application was allowed and the parties were referred to arbitration.

6. The petitioner invoked the arbitration clause and approached the named arbitrator. However, respondent 4 objected to the appointment and the named arbitrator withdrew. The petitioner then issued notice dated 3.9.2017 for appointment of arbitrator, which was not accepted by the respondent.

7. In sum and substance, the petitioner submits that there is no impediment in appointing the arbitrator since Civil Court has referred the parties to arbitration.

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8. The averments in the application have gone unchallenged.

9. The application is allowed.

10. The learned retired District Judge, Mr. Kishor Deshpande is appointed as the sole arbitrator.

11. The Registry shall issue letter of request to the learned Arbitrator requesting him to forward the statement of disclosure and consent.

12. After receipt of the statement of disclosure and consent, and deposit of necessary charges, writ of appointment be issued to the appointed Arbitrator.

JUDGE

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