

Arun

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
ARBITRATION PETITION NO. 72 OF 2021**

Anshul Shetty ...Petitioner
Versus
Vishwajeet Singh Raghunathraje Naik Nimbalkar ...Respondents
& Anr

Mr Hitesh P Vyas, for the Petitioner.
None for the Respondents.

CORAM: G.S. PATEL, J
DATED: 29th September 2021

PC:-

1. The service report indicates that, pursuant to the order of 4th February 2021 of Hon'ble Mr Justice AK Menon, notice has been served. None appears for the Respondents. On one previous occasion on 6th April 2021, Mr Udane appeared but said that the Advocate on record had been hospitalised. As of today, there is no vakalatnama on behalf of the Respondents. Matters cannot be delayed indefinitely like this. There is also an Affidavit of Service.

2. The dispute is a partnership dispute. There is an LLP Agreement dated 27th September 2018. It has an arbitration clause at page 21, paragraph 49. This says that disputes that are not settled

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through negotiations are to be referred to the arbitration of a sole Arbitrator. The venue of this arbitration is to be in Pune.

3. The Notice dated 14th September 2020 issued by the Petitioner and the responses of 29th September 2020 and 12th October 2020 from the Respondent indicate the existence of disputes that directly arise from the LLP Agreement document. The existence of the clause is not disputed. That there are disputes that requires settlement or resolution is also not disputed.

4. Since the arbitration is in Pune, I will request Hon'ble Dr Smt Justice Shalini Phansalkar-Joshi to accept the appointment as a sole Arbitrator to decide the disputes and differences between the parties under LLP Agreement dated 27th September 2018

TERMS OF APPOINTMENT

(a) **Appointment of Arbitrator:** The Hon'ble Dr Smt Justice Shalini Phansalkar-Joshi, is hereby nominated to act as a Sole Arbitrator to decide the disputes and differences between the parties under LLP Agreement dated 27th September 2018

(b) **Communication to Arbitrator of this order:**

(i) A copy of this order will be communicated to the learned Sole Arbitrator by the Advocates for the Petitioner within one week from the date this order is uploaded.

- (ii) The Advocates for the Petitioner will forward an ordinary copy of this order to the learned Sole Arbitrator at the following postal and email addresses:

Arbitrator **Hon'ble Dr Smt Justice Shalini Phansalkar-Joshi**

Address Bungalow No.12
Bhagya Chintamani Society
Opposite Kachra Depot
Paud Road, Kothrud
Pune 400 411.

Mobile 9657188676

Email phansalkarjoshi@gmail.com

- (c) **Disclosure:** The learned Sole Arbitrator is requested to forward, in hard copy or soft copy (or both), the necessary statement of disclosure under Section 11(8) read with Section 12(1) of the Arbitration Act to Advocates for the parties as soon as possible. The Advocates for the Petitioner will arrange to file the original statement in the Registry. If the statement is forwarded in soft copy, a print out of the covering email is also to be filed in the registry.
- (d) **Appearance before the Arbitrator:** Parties will appear before the learned Sole Arbitrator on such date and at such place as the learned Sole Arbitrator nominates to obtain appropriate directions in regard to fixing a schedule for completing pleadings, etc.

- (e) **Contact/communication information of the parties:**
Contact and communication particulars are to be provided by both sides to the learned Sole Arbitrator. The information is to include functional email addresses and mobile numbers.
- (f) **Section 16 application:** The respondent is at liberty to raise all questions of jurisdiction within the meaning of section 16 of the Arbitration Act. All contentions are left open.
- (g) **Interim Application/s:**

 - (i) Liberty to the parties to make an interim application or interim applications including (but not limited to) interim applications under Section 17 of the Arbitration & Conciliation Act, 1996 before the learned Sole Arbitrator. Any such application will be decided in such manner and within such time as the learned Sole Arbitrator deems fit.
 - (ii) The learned Sole Arbitrator is requested to dispose of all interim applications at the earliest.
- (h) **Fees:** The learned Sole Arbitrator fees shall be in her discretion.

- (i) **Sharing of costs and fees:** Parties agree that all arbitral costs and the fees of the arbitrator will be borne by the two sides in equal shares in the first instance.
- (j) **Consent to an extension if thought necessary.** Parties immediately consent to a further extension of up to six months to complete the arbitration should the learned Sole Arbitrator find it necessary.
- (k) **Venue and seat of arbitration:** Parties agree that the venue and seat of the arbitration will be in Pune .
- (l) **Procedure:** These directions are not in derogation of the powers of the learned Sole Arbitrator to decide and frame all matters of procedure in arbitration.

5. The Petition is disposed of in these terms. No costs.

6. All concerned will act on production of a digitally signed copy of this order.

(G. S. PATEL, J)