

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

ARBITRATION PETITION NO. 17 OF 2021

WITH

INTERIM APPLICATION NO. 1778 OF 2020

Jaikumar Dashrath Jaya ... Petitioner

vs.

Rupesh Babanrao Thorat and Anr. ... Respondents

Mr. Yogesh Shivaji Palve for the Petitioner.

Mr. Shantibhushan Nirmal i/b. Profess Law Associates for the Respondents.

CORAM : A. K. MENON, J.

DATE : 6th APRIL, 2021.

P.C. :

1. Called for hearing and disposal. This petition seeks appoint of a Sole Arbitrator pursuant to an agreement dated 18th October, 2013 copy of which is at Exhibit A to the petition. Paragraph 25 of the agreement contemplates that all disputes to be referred to arbitration under the Arbitration Act of 1940. In view of the enactment of the Arbitration and Conciliation Act, 1996 the Arbitrator will have to be appointed under the new Act.

2. Both parties agree that there is an arbitration agreement between the parties. However according to the respondent there are no disputes to be referred to arbitration. The invocation of the arbitration clause is seen from

Exhibit C to the petition. This is Advocate letter dated 16th March, 2019 which is reiterated on 23rd April, 2019 at Exhibit D.

3. In reply the respondent has vide 9th May, 2019 at Exhibit A to the affidavit in reply calls for a reconciliation meeting. If there were no disputes there would not have been any need for such a meeting. Execution of the agreement by and between the parties is admitted and that the agreement embodies an arbitration clause. Today both learned counsel agree to submit to the Sole Arbitration of an Advocate of this Court. Accordingly by consent of parties I pass the following order :

4. Accordingly I pass the following order :

(i) Mr. Mahernosh Humranwala, Advocate is appointed Sole Arbitrator to adjudicate upon disputes and differences between the parties under agreement dated 18th October, 2018 true copy of which appears at Exhibit A to the petition.

(ii) A copy of this order will be communicated to the learned Sole Arbitrator by the Advocates for the Applicant within one week from the date this order is uploaded. In addition, within one week of this order being uploaded, the Registry will forward an ordinary copy of this order to the learned Sole Arbitrator.

(iii) The learned Sole Arbitrator is requested to forward the necessary statement of disclosure under Section 11(8) read with Section 12(1) of the Arbitration Act to the “Registrar (Judicial-I) of this Court at his earliest convenience before entering upon the reference to arbitration. Copies will be given to both sides.

(iv) Fees payable to the Sole Arbitrator will be in accordance with the Bombay High Court (Fee Payable to Arbitrators) Rules, 2018.

(v) Petition disposed in the above terms.

(A. K. MENON, J.)