

Shephali

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
ARBITRATION PETITION NO. 39 OF 2021**

Suresh Shivram Dudhane (Deceased) through ...Petitioners
LRs 1-A) Sachin S Dudhane & Ors
Versus
Mira Education Trust through its Trustee Paresh ...Respondents
Lalitkumar Babaria & Anr

**WITH
ARBITRATION PETITION (ST) NO. 4426 OF 2021
WITH
ARBITRATION PETITION (ST) NO. 4428 OF 2021**

Mr Sandeep M Phatak, for the Petitioners.
Mr Anoshak Daver, i/b Vinay Talimal, for the Respondents.

CORAM: G.S. PATEL, J
(Through Video Conferencing)
DATED: 28th July 2021

PC:-

SHEPHALI
SANJAY
MORMARE

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1. The arbitration clause between the parties under the Lease Deed in question requires a reference to a three-member tribunal. Both sides inform me that they have agreed to a substitution of this provision and are agreeable to refer their disputes to a sole

Arbitrator to be nominated by this Court. The clause says that the venue of the arbitration is to be in Pune.

2. I request the Hon'ble Dr Mrs Shalini Phansalkar-Joshi, former Judge of this Court accept the nomination as a sole Arbitrator in all three matters.

TERMS OF APPOINTMENT

(a) **Appointment of Arbitrator:** The Hon'ble Dr Mrs Shalini Phansalkar-Joshi is hereby nominated to act as a Sole Arbitrator to decide the disputes and differences between the parties in all three matters. Of necessity, there will be three separate references to arbitration, though all may be heard together for convenience. This is for the learned Sole Arbitrator to decide.

(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/s Hon'ble Dr Smt Justice
Shalini Phansalkar-Joshi,
former Judge of this Court.**

<i>Address</i>	Bungalow No. 12 Bhagya Chintamani Society Opposite Kachra Depot Paud Road, Kothrud, Pune 400 411 038.
<i>Mobile</i>	+91 96571 88676
<i>Email</i>	phansalkarjoshi@gmail.com

- (c) **Disclosure:** In all three matters, the learned Sole Arbitrator is requested to forward, in hard copy or soft copy (or both), the necessary statements 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 is 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.

(1) 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.

3. All three Petitions are disposed of in these terms. No costs.

4. Mr Daver for the Respondent Trust points out that the names of the individual trustees are incorrectly mentioned. He will communicate the correct names of the trustees to the other side by the end of the day tomorrow. The Petitions need to be amended for this purpose. Leave to amend the Petitions within a period of one week without need of reverification.

5. It is clarified that the statement of claim before the learned sole Arbitrator is to carry the correct names of the present trustees of the Trust.

6. This order will be digitally signed by the Private Secretary of this Court. All concerned will act on production of an ordinary copy of this order.

(G. S. PATEL, J)