

Sharayu Khot.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

ARBITRATION PETITION NO. 87 OF 2021

Mr. Virajsinh Bhikusinh Rathod

...Petitioner

Versus

Mr. Hemrajsinh Kiransinh Rathod

...Respondent

Mr. Jehangir Jejeebhoy i/by Kanga and Company for the
Petitioner.

Mr. Vivek V. Khemka for the Respondent.

CORAM : R.I. CHAGLA J

DATE : 21 October 2021

ORDER :

1. Heard learned Counsel for the parties.

2. By the Arbitration Petition, the Petitioner is seeking appointment of the Arbitrator as the Respondent's nominee arbitrator since the Petitioner has already appointed an arbitrator. Further, direction is sought for the two arbitrators to appoint presiding arbitrator to form an arbitral tribunal to adjudicate all disputes and differences that have arisen

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between the parties relating to or arising from the Deed of Partnership dated 19th July 2017.

3. Learned Counsel for the Petitioner has referred to the Deed of Partnership dated 19th July 2017 and in particular clause 15 thereof, which provides for arbitration. He has submitted that the Arbitration Agreement is not disputed by the Respondent. He refers to the letter dated 10th May 2021 addressed by the Advocate of the Petitioner by which the Petitioner has invoked arbitration under the Deed of Partnership and nominated Mr. Subhash Rakshe, Retired Judge and Advocate to be appointed as the sole arbitrator and in the alternative the said Mr. Subhash Rakshe to be treated as Petitioner's nominee arbitrator and calling upon the Respondent to appoint his arbitrator. This has been responded by the learned Advocate for the Respondent as per letter dated 6th September 2021 wherein they have rejected the appointment of Mr. Subhash Rakshe as sole arbitrator and stated that the Respondent will inform his nominee arbitrator in due course.

4. Learned Counsel for the Respondent submits that in

view of a panel of three arbitrators to be appointed and particularly, since the Respondent has rejected the appointment of Mr. Subhash Rakshe as sole arbitrator, the Respondent is agreeable to Mr. Samir Modasia, an Advocate to be appointed as the Respondent's nominee arbitrator. Hence, following order is passed :-

- (i) Mr. Subhash Rakshe, Retired Judge and Advocate is appointed as the Petitioner's nominee arbitrator.
- (ii) Mr. Samir Modasia, an Advocate is appointed as the Respondent's nominee arbitrator.
- (iii) Both the Arbitrators shall appoint presiding arbitrator to form an arbitral tribunal to adjudicate all disputes and differences that have arisen between the parties relating to or arising from the Deed of Partnership dated 19th July 2017.

(iv) All contentions of the parties are kept open to be urged before the Arbitral Tribunal including costs.

(v) Arbitration Petition is disposed of in the above terms.

[R.I. CHAGLA J.]