

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
ARBITRATION APPLICATION NO.154 OF 2020**

Subhash Ramnath Pandey

....Applicant

V/s.

Shangrila Communications (LLP) & Ors.

....Respondents

Mr. Nausher Kohli a/w. Mr. Akhil Sarathy i/b. Thodur Law Associates for applicant.

Mr. Vagish Mishra a/w. Mr. Rajuram i/b. Law Counsellors for respondent no.2.

CORAM : K.R.SHRIRAM, J.

DATED : 27th JULY 2021

P.C. :

1 At the outset, Mr. Mishra undertakes to file Vakalatnama on behalf of respondent no.2 on or before 30th July 2021. Undertaking accepted.

2 Mr. Mishra is seeking time of atleast two weeks to file reply but candidly agrees that his client was served the application some time in March 2021. Therefore, he had four months to file reply which has not been done. Therefore, request for time rejected.

3 The dispute arises from an Agreement dated 13th February 2018. Applicant and respondent nos.2 and 3 were partners of respondent no.1. Clause 94 of the Agreement provides for arbitration. It is alleged that applicant had made certain allegations against respondent nos.2 and 3 and issued notices on 14th August 2019 and 8th January 2020 to which there has

been no response. Applicant also served a notice invoking arbitration vide its advocate's letter dated 12th March 2020, copy whereof is at Exhibit "C" to the application to which again there is no response.

4 Mr. Kohli states that respondent no.1 is a formal party since that is a partnership firm but strangely Mr. Mishra is appearing only for respondent no.2 though respondent no.3 is the wife of respondent no.2 and is residing at the same address with respondent no.2. Mr. Kohli states that respondent no.3 has also been served in March 2021 and undertakes to file affidavit of service within one week from today.

5 In the circumstances, the application has to be allowed. In paragraph 16 of the notice invoking arbitration, applicant has suggested the name of Mr. Zafar Imam, retired District Judge, who is registered on the panel of Arbitrators maintained with this Court, as sole Arbitrator. The arbitration clause does not provide for number of Arbitrators to be appointed.

6 Therefore, Mr. Zafar Imam, retired District Judge is appointed as sole Arbitrator to arbitrate on all disputes arising out of and/or in connection with and/or relating to the agreement dated 13th February 2018 and counter claim, if any. All rights and contentions of the parties are kept open, except the question of jurisdiction of the arbitrator.

7 The fees to be fixed by the Arbitrator, administrative expenses, typing charges and venue charges to be shared equally between the parties, i.e., applicant, respondent no.2 and respondent no.3 and the same shall be subject to costs in the arbitral proceedings.

8 For the sake of expediency, learned Arbitrator to communicate in writing to the advocate for applicant with copy to respondents the disclosures as required under Section 11 (8) read with Section 12 (1) of the Arbitration and Conciliation Act, 1996 within two weeks of receiving a copy of this order from any of the party. Applicant shall file a copy of the disclosures in the registry within two weeks of receiving the same.

9 Application accordingly stands disposed.

10 Mr. Kohli states that there is a petition being Arbitration Petition No.51 of 2021 filed under Section 9 of the Arbitration and Conciliation Act, 1996 (the Act). Mr. Kohli states that the Arbitrator be directed to hear the said petition as an application under Section 17 of the Act.

11 Accordingly, petitioner to file a copy of the petition with the Arbitrator. Mr. Kohli states that the petition has been served on respondent nos.2 and 3 alongwith this application way back in March 2021.

12 Should respondent nos.2 and 3 wish to file reply to the petition, they may do so within two weeks from today before the Arbitrator

with copy to applicant's advocates. If within two weeks no reply is filed, the Arbitrator may dispose the application after considering the same on its merit without giving any further time to respondent nos.2 and 3.

13 Arbitration Petition No.51 of 2021 accordingly stands disposed.

(K.R. SHRIRAM, J.)