

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS COMMERCIAL DIVISION**

COMMERCIAL ARBITRATION PETITION NO.287 OF 2021

Alireza Afzal Thaver

....Petitioner

V/s.

White Placard Technologies Pvt. Ltd. & Ors.

....Respondents

Mr. Ram Upadhyay a/w. Mr. Dharmesh Singh i/b. Law Competere Consultus
for petitioner.

Mr. Yakshay Chheda for respondents.

CORAM : K.R.SHRIRAM, J.

DATED : 27th JULY 2021

P.C. :

1 Heard both the counsel. Mr. Chheda appearing for respondent nos.1 and 2 undertakes to file Vakalatnama within one week from today under advise to petitioner's advocates. Mr. Chheda states that respondent no.2 has died and in any case, the agreement relied upon by petitioner is between petitioner and respondent no.1, which is a company, whereas deceased respondent no.2 and respondent no.3 were only Directors.

2 Mr. Upadhyay states that respondent nos.2 and 3 were only added because they knew the facts but he is not pursuing any arbitration proceedings against respondent nos.2 and 3 and the arbitration proceedings is only between petitioner and respondent no.1.

3 Mr. Chheda states that without prejudice to respondents' rights and contentions, the Court may appoint an Arbitrator, who can decide all applications and petitioner's claim and counter claim of respondent no.1, if

any. In the notice invoking arbitration, petitioner has suggested two names to be the sole Arbitrator, one of whom is Mr. Atul Daga, an Advocate practicing in this Court. Mr. Chheda and Mr. Upadhyay jointly request that Mr. Atul Daga be appointed as sole Arbitrator.

4 Accordingly, by consent, the following order is passed :

(a) Mr. Atul Daga, an Advocate practicing in this Court (Address : 2nd Floor, Jeroo Buidling, M.G. Road, Fort, Mumbai – 400 001, Mobile No.:9819044756, Email ID : atul.vdaga@gmail.com) 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 15th October 2019 and counter claim, if any. All rights and contentions of the parties are kept open, except the question of jurisdiction of the arbitrator.

(b) The fees to be fixed by the Arbitrator, administrative expenses, typing charges and venue charges to be shared equally between the parties, i.e., 50% by petitioner and 50% by respondents and the same shall be subject to costs in the arbitral proceedings.

(c) For the sake of expediency, learned Arbitrator to communicate in writing to the advocate for petitioner with copy to respondent 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. Petitioner shall file a copy of the disclosures in the registry within two weeks of receiving the same.

5 Now that the Arbitrator is appointed, both counsel request to treat this petition be converted as an application under Section 17 of the Arbitration and Conciliation Act, 1996.

6 Accordingly, applicant to file a copy of the petition before the Arbitrator and the Arbitrator will hear the same as an application under Section 17 of the Act. Respondents may file its reply within two weeks from today directly to 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 respondents. Arbitrator may permit petitioner also to file further pleadings, if required.

7 Petition accordingly stands disposed.

8 In view of the above, Commercial Arbitration Application No.100 of 2021 also stands disposed.

(K.R. SHRIRAM, J.)