

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

**ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS COMMERCIAL DIVISION**

COMMERCIAL ARBITRATION APPLICATION NO. 105 OF 2021

Shruti Vijay Agarwal and Ors.

....Applicants

V/s.

Kothari Auto Parts Manufacturers
Pvt. Ltd. and Anr.

....Respondents

Mr. Pritesh Burad i/b Pritesh Burad Associates for Applicants.

Mr. Nausher Kohli a/w Mr. Yash Dhruva i/b DSK Legal for Respondent
No. 1.

Mr. T. N. Tripathi a/w Ms. Kalyani Wagle i/b T. N. Tripathi and Co. for
Respondent No.2.

CORAM : K.R.SHRIRAM, J.

DATED : 23rd JULY 2021

P.C. :

1. Mr. Burad, Mr. Kohli and Mr. Tripathi, without prejudice to rights and contentions of the respective clients, stated that this court may appoint Mr. Justice R.G. Ketkar (Retired) former Judge of this court (Address : i) Flat No. B1, Anjali Apartment, Pandit Wadi, Off. Bhavani Shankar Road, Dadar (W), Mumbai - 400 028, ii) 202, Dalamal Chambers, New Marine Lines, Mumbai - 400 020, Mobile No.: 9821116740, Email ID : rgketkar1@gmail.com) as Sole Arbitrator to arbitrate on all disputes arising out of and/or in connection with and/or relating to the Tripartite

Agreement and Agreement for Sale dated 02/12/2017 and counter claim, if any. Mr. Tripathi states that Tripartite Agreement which his client is provided him shows date as 24/01/2018. Learned counsel agrees that the date is incorrect. Learned Arbitrator may find out the correct date after consulting the parties.

2. The fees of the learned Arbitrator together with administrative expenses and out of pocket expenses to be shared equally between the parties and the same will be costs in the arbitral proceedings.

3. Mr. Tripathi says that the rights under the agreement has been assigned by Respondent No.1 to some third party and his instructions are that the third party has reassigned it to someone else. That is something between Respondent No.1 and its assignees and I am not going into all these issues as there is indisputably Tripartite Agreement and Agreement for Sale dated 02/12/2017 to which Respondent No.1 is a party.

4. Learned counsel agreed, with the intention of saving time and for sake of expediency, either of the party will forward a copy of this order to the learned Arbitrator and the learned Arbitrator to give declaration as required under Section 11 (8) read with Section 12 (1) of the Arbitration and Conciliation Act, 1996 directly to the parties. Once received, a copy of

the same will be filed by petitioner in the court to be placed alongwith the Record and Proceedings of this application. If the learned Arbitrator expresses his inability to accept the reference to the parties before entering into reference, parties are at liberty to approach the court for appointment of substitute Arbitrator.

5. Application stands disposed.

(K.R. SHRIRAM, J.)