

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

MISC. CIVIL APPLICATION (ARBN) 349 OF 2020

(Akhtar Parvez Maimoon s/o. Late Asgharali..vs.. Iqbal Hussain s/o. Late Asgharali and anr)

*Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.*

Court's or Judge's orders.

Mr. Masood Shareef, counsel for applicant.
Mr. M.G. Bhangde, senior counsel assisted by
Mr A.M. Quazi, for non-applicants.

CORAM: ROHIT B. DEO, J.

DATE: 01.12.2021.

I heard the learned counsel for the applicant Mr. Masood Shareef and the learned senior counsel for the non-applicants Mr. M.G. Bhangde, who is assisted by Mr. A.M. Quazi, at length.

2. During the course of hearing, this Court called upon the learned counsel for the non-applicants to explore the option of withdrawing this application with liberty to take recourse to the arbitration clause and then agitate the other issues, if the need to do so arises.

3. The learned senior counsel Mr. M.G. Bhangde has no objection per se to the withdrawal. However, the learned senior counsel emphasizes that every contention be left open since one of the objections to appointment of arbitrator is that there is no

arbitration agreement governing the parties and in any event, the dispute is not arbitrable.

4. I am of the view, that every contention can be left open, be it the contention of the applicant that there is an arbitration clause which is unworkable and in any event, would not ensure neutrality and impartiality and the objections raised on behalf of the non-applicants, which are briefly noted supra.

5. This application is disposed of, as withdrawn, leaving every contention open.

6. The applicant is at liberty to take recourse to the arbitration clause without prejudice and the objections of the non-applicants are similarly kept open for adjudication at appropriate stage.

7. The application is disposed of.

Judge

rsb