

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

ARBITRATION PETITION NO. 108 OF 2019

Mr. Shahanawaz Suleman Ghavane

...Petitioner

Versus

M/s. Plus Idea Engineering Corporation & Anr.

...Respondents

* * *

- Mr. Ajit Mahadev Savagave, for Petitioner.
- Mr. Padmanabh D. Pise for Respondent No. 2 i/by P. Padmanabh & Associates.

* * *

CORAM : MANISH PITALE, J

DATE : 18TH NOVEMBER, 2022.

P. C. :

1. By this petition filed under Section 11 of the Arbitration and Conciliation Act, 1996, the petitioner has approached this Court for appointment of Arbitrator to resolve the disputes between parties.

2. The petitioner and Respondent No. 2 are partners of the Partnership Firm i.e. Respondent No. 1. The Partnership Deed executed between the parties is dated 05th April, 2010, which contained Arbitration Clause.

3. Clause 18 of the said Partnership Deed provides for resolution of the disputes, if any, between the parties by way of appointment of a Sole Arbitrator or two Arbitrators to be appointed by each of the disputing parties and in accordance with the provisions of the aforesaid Act.

4. When dispute arose between the parties, the petitioner by notice dated 07th March, 2019, invoked the Arbitration Clause and suggested appointment of an Arbitrator. There was no response on behalf of the Respondent No. 2.

5. It is in these circumstances the present petition was filed. Upon notice being issued Respondent No. 2 appeared through Counsel.

6. The learned Counsel for the Petitioner made submissions in support of the petition, while the learned Counsel for the Respondent No. 2 raised two objections, firstly, in the absence of registration of the Partnership Deed, in view of Section 69 of the Partnership Act, present petition would not be maintainable and secondly that the contents of Clause 18 i.e. Arbitration Clause in the Partnership Deed would show that the nature of disputes sought to be raised on behalf of the Petitioner would not be covered in the disputes specified in the said clause.

7. Insofar as first objection is concerned, this Court in its judgment in the case of Choudhari Food Industries Vs. Ahmednagar District Goad Rearing And Processing Co-operative Federation Ltd., 2022 (2) Mh.L.J. 117. and judgment of Hon'ble Supreme Court in the case of Umesh Goel Vs. Himachal Pradesh Co-operative Group

Housing Society Ltd., (2016) 11 SCC 313, held that objection under Section 69 of the Partnership Act would not be relevant insofar as the Arbitration proceedings are concerned. As far as the second issue is concerned, this Court finds that Clause 18 of the Partnership Deed is widely worded and it covers the dispute raised on behalf of the petitioner, which is manifested in the notice dated 07th March, 2019, whereby the petitioner invoked the Arbitration Clause.

8. In view of the above, the objections are rejected and this Court finds that the petition can be allowed.

9. In these circumstances, the learned Counsel for the parties jointly proposed the name of Mr. N.G. Patil, Retired District Judge, from Kolhapur, to be appointed as the Sole Arbitrator for resolving the disputes between the parties.

10. In view of the above, Mr. N. G. Patil (Retired District Judge) is appointed as the Sole Arbitrator.

11. The details of the Arbitrator are as follows:

Mr. N. G. Patil

Prajakta, Hind Paradise, Near Atharv Siddhi,

Tarabai Park, Kolhapur - 416 003.

Mobile No. 9420129290

12. The learned Arbitrator to communicate his consent and

Disclosure Statement as per Section 11(8) read with 12(5) of the aforesaid Act, within four weeks to the Registrar (Judicial) of this Court.

13. The learned Counsel for the parties are directed to immediately inform the learned Arbitrator about the order passed today.

14. The Fees of the Arbitrator shall as per Schedule IV to the aforesaid Act.

15. All questions are kept open to be determined by the learned Arbitrator.

16. The petition stands disposed of.

(MANISH PITALE, J.)