

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
ARBITRATION PETITION NO. 34 OF 2022

Bajaj Auto Ltd. ... Petitioner

vs.

Mr. Chandra Prakash ... Respondent

Ms. Swati Sutar, i/by. Dhru & Company for the petitioner.

None for the respondent.

CORAM : MANISH PITALE, J

DATE : 12th OCTOBER, 2022

PC. :

By this petition filed under Section 11 of the Arbitration and Conciliation Act, 1996, the petitioner has prayed for appointment of a sole arbitrator to adjudicate upon the disputes that have arisen between the parties in the context of the dealership agreement dated 17th October, 2019.

2. The petitioner is a manufacturer of automobiles and two-wheelers and had entered into the aforesaid dealership agreement with the respondent. The said agreement stipulated an arbitration clause, which reads as follows:

“Article 24: Arbitration

24.1 In the event of any dispute, controversy or claim arising out of or in relation to this Agreement, the Parties agree to make every effort to reach an amicable settlement in the first instance.

24.2 Any dispute, controversy or claim arising out of or in relating to this Agreement or in respect of its interpretation or the breach, termination or invalidity thereof or shall be settled by reference to the arbitration by a Sole Arbitrator to be mutually appointed by the Parties and failing such mutual appointment by a sole Arbitrator to be appointed under and in accordance with the Arbitration and Conciliation Act, 1996 or any other statutory modification thereof.

24.3 The Parties hereby agree to have their dispute resolved by the Arbitrator appointed under Clause

24.2 by “Fast Track Procedure” as mentioned in S. 29B of the Arbitration and Conciliation Act, 1996 or any further modification/amendment/re-enactment thereof. The place of arbitration shall be Pune, Maharashtra. The language used in arbitral proceedings shall be English. The Award shall be final and binding on both the Parties.

24.4 The Parties hereby expressly submit themselves to the exclusive jurisdiction of the appropriate Courts in Pune, Maharashtra, India.

3. Certain disputes arose between the parties, in pursuance of which, on 7th October, 2021, the petitioner sent a notice to the respondent demanding a specific sum of money along with interest.

4. Respondent sent a reply by email only stating that he was finding it difficult to pay the amount so demanded, as it was huge.

5. In this background, on 3rd February, 2022, the petitioner sent a notice under Section 21 of the aforesaid Act, invoking the arbitration clause and proposing a name of the arbitrator for adjudicating the disputes that arose between the parties. Despite service of notice, the respondent did not respond. As a consequence, the petitioner was constrained to file the present petition.

6. Ms. Swati Sutar, learned counsel for the petitioner has submitted that on 17th August, 2022, this Court issued a fresh notice to the respondent in the backdrop that the respondent did not come forward despite private notice being served upon him. It was made clear in the said order that if the respondent does not come forward despite service of notice and is not represented on the adjourned date of hearing, this Court would proceed to hear the matter and pass appropriate orders. Learned counsel for the petitioner has relied upon the affidavit of service dated 27th September, 2022 placed on record, indicating that the respondent was again served and despite service, he did not appear before this Court.

7. Heard learned Counsel for the petitioner.
8. Attention of this Court is invited to the arbitration clause. It is submitted that there is a dispute, which needs to be adjudicated in terms of the aforesaid arbitration clause.
9. This Court is convinced that a case is made out by the petitioner for appointment of arbitrator, particularly for the reason that there is a dispute and the petitioner having invoked the arbitration clause by issuing notice dated 3rd February, 2022 under Section 21 of the said Act, the respondent has not come forward either before the institution of the present petition or after filing and duly serving the present petition upon the respondent.
10. In view of the above, the petition is allowed in terms of the prayers made therein and Mr. Rakesh Umarani, Advocate is appointed as a sole arbitrator to adjudicate the disputes between the parties in the present case. Contact details of the learned arbitrator are as follows:

UKP Legal Law Firm
1, Shri Niketan,
Behind Dr. Kalmadi High School,
Prabhat Road, Pune-411 004.
Tel.: +91 20 2544 0104
11. Learned arbitrator is requested to submit his consent and disclosure statement in terms of Sections 11(8) and 12(1) of the aforesaid Act within three weeks from today to the Registrar (Judicial) of this Court. The fees of the arbitrator shall be in terms of Schedule IV of the said Act.
12. The parties to appear before the learned arbitrator on 14th November, 2022. The statement of claim shall be filed within three weeks of appearance of the parties before the learned Arbitrator. Learned Arbitrator shall proceed further in accordance with law.
13. Petition stands disposed of.

(MANISH PITALE, J)