

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

ARBITRATION PETITION NO.7 OF 2021

Ramdas Maruti Katake.

..Petitioner

vs.

Aslam Abdullah Haji & Ors.

..Respondents

Mr.Hemant P.Ghadigaonkar i/b. Vijay Killedar, for the Petitioner.

Mr.Rohan Rajadhyaksha with Mr.Anupam Sambhus i/b. AZB & Partners, for the Respondents.

CORAM : G.S. KULKARNI, J.

DATE : AUGUST 24, 2022.

PC.:

1. This is a petition filed under Section 11 of the Arbitration and Conciliation Act, 1996 (for short 'the Act') whereby the petitioner seeks appointment of an arbitral tribunal for adjudication of the disputes and differences which have arisen between the parties under the Deed of Partnership dated 30 April 2014. The arbitration agreement between the parties is contained in clause No.12 of the Deed of Partnership in question. By a notice dated 21 November 2019, the petitioner had invoked the arbitration agreement and sought appointment of an arbitral tribunal.

2. Mr.Rajadhyaksha, learned Counsel appearing for respondent Nos.1 and 2 submits that there is no dispute in regard to the existence of an arbitration agreement as also in regard to the invocation of arbitration agreement. Mr.Rajadhyaksha would also not have any objection for the disputes being referred for adjudication by appointing

an arbitral tribunal as prayed for in the amended prayers namely prayer clause (a-1) which is to the effect that a sole arbitrator be appointed to adjudicate the disputes between the parties as arisen under the Partnership Deed dated 30 April 2014.

3. Respondent No.3 is served however, he is not represented. Mr.Rajadhyaksha has informed the Court that respondent No.3 has served a reply affidavit on his clients, (although not served on the petitioner) being an affidavit dated 23 March 2021 of respondent no.3-Indrajeet Vilas Malave. A copy of the affidavit as served on respondent Nos.1 and 2 is placed for perusal of the Court by Mr.Rajadhyaksha. The contention of respondent No.3 is similar to what was urged by respondent Nos.1 and 2 namely that the arbitration ought to be under the Deed of Partnership dated 30 April 2014 and not under the previous Deed of Partnership dated 1 April 2004.

4. In the above circumstances, it would be appropriate that the proceedings are disposed of, as respondent nos.1 and 2 also do not have an objection to refer the disputes to arbitration. There appears to be no dispute in regard to the existence of the arbitration agreement between the parties as also there is proper invocation of the arbitration agreement, as also respondent nos.1 and 2 have consented for appointment of an arbitral tribunal. The petition is accordingly disposed of in the following terms:-

ORDER

(i) Shri.R.R.Deshmukh, Retired District Judge is appointed as a sole Arbitrator to adjudicate the disputes and differences between the parties under the Deed of Partnership dated 30 April 2014.

(ii) The learned sole prospective arbitrator, fifteen days before entering the arbitration reference, shall forward a statement of disclosure as per the requirement of Section 11(8) read with Section 12(1) of the Arbitration and Conciliation Act, 1996, to the Registrar (Judicial) of this Court, to be placed on record of this application with a copy to be forwarded to both the parties;

(iii) The fees payable to the arbitral tribunal shall be as prescribed under the Bombay High Court (Fees Payable to Arbitrators) Rules, 2018, and the fees shall be borne by the parties in equal proportion.

(iv) At the first instance, the parties shall appear before the prospective arbitrator within 15 days from today on a date which may be mutually fixed by the prospective sole arbitrator;

(v) All contentions of the parties on merits of the matter are expressly kept open;

(vi) The petitions is disposed of in the above terms. No costs.

(vii) Office to forward a copy of this order to the learned Arbitrator on the following address:

C/o. F602, Rose County,
Kunal Icon Road, Near ICICI Bank,
Pimple, Saudagar, Pune-411027.
Mobile:9423325090
Email: arnav432@gmail.com

[G.S. KULKARNI, J.]