

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

ARBITRATION PETITION NO.123 OF 2021

Balas Hotels Pvt. Ltd.
Through its Dir. Mr. Sanket
Kailas Pawar & Anr. ...Petitioners
V/S
Alcott Town Planners Pvt. Ltd. ...Respondent

Mr. Dormaan Jamshid Dalal for Petitioners.

CORAM : R. I. CHAGLA, J.

DATED : 1st JULY, 2022.

P.C.

1. Heard learned counsel for the Petitioners.
2. By this Arbitration Petition, the Petitioners are seeking appointment of a neutral and independent Sole Arbitrator to adjudicate the disputes and differences between the parties arising out of Leave and License Agreement dated 19th July 2017.
3. By an order dated 28th October 2017, it was noted that the Respondent had undergone a change in its name and accordingly name of the Respondent in the Arbitration Petition was permitted to be substituted. The office was directed to issue the notice to the

Respondent and in addition to Court notice, the Petitioners were permitted to serve by private notice, either by RPAD and/or by hand delivery and file Affidavit of service on or before the next date of this order. It appears that thereafter, the amendment has been made and the notice has been served on the Respondent. The Affidavit of service has also been filed on 18th November 2021. However, inspite of service, none appears for the Respondent.

4. The learned counsel for the Petitioners has taken this Court through the Leave and License Agreement dated 19th July, 2017 and in particular 12, thereof, which is the Arbitration Agreement. It is pertinent to note that, the Respondent has not questioned or disputed the Arbitration clause in the said Leave and License Agreement. He has also taken this Court through the notice invoking the Arbitration dated 23rd February 2021, wherein name of the advocate to act on a Sole Arbitrator to adjudicating the disputes between the parties is proposed. This was responded to the Respondent through their Advocate on 26th March 2021. The Petitioners were informed of the change of the name of the Respondent. It is stated therein that the matters have been duly agreed and understood between the parties and can be resolved by

mutual understanding by revisiting the position on grounds and books of accounts of both side. The invocation of the Arbitration is accordingly challenged and the name of the proposed Arbitrator has been rejected.

5. The learned counsel appearing for the Petitioners has submitted that there is no dispute as to the Arbitration Agreement under clause 12 of the Leave and License Agreement.

6. In view thereof, he has prays for appointment of the sole Arbitrator. He has further submitted that subsequent to the Respondent's Advocate's letter dated 26th March 2022, there has been no response from the Respondent.

7. I have considered the submissions of the learned counsel for the Petitioners and take note of the fact that there is an Arbitration Agreement under clause 12 of the Leave and License Agreement dated 19th July 2017 between the Petitioners and the Respondent, who was formally known as Alcott Town Planners Pvt. Ltd. and whose name is changed to OYO Hotels & Homes Pvt. Ltd. as now reflected in the cause title of the Petition. It would be further appropriate to note that none appears from the Respondent though served. The Respondent has also not disputed the Arbitration

Agreement. This is apparent from the letter dated 26th March 2021, of the Respondent's Advocate. The only ground of challenge to the invocation of the Arbitration Agreement is that the matter has been duly agreed and understood and can be resolved by mutual understanding by revisiting the position on grounds and books of accounts of both side. Thereafter, there is no response from the Respondent. The Arbitration Petition has accordingly been filed on 27th October 2021. In view of there being no dispute with regard to the Arbitration Agreement, the relief sought for is required to be granted.

8. Hence, the following order is passed:-

- (i). Mr. Nausher Kohli, Advocate of this Court is appointed as Sole Arbitrator to decide the disputes between the Petitioners and the Respondent arising out of Leave and License Agreement dated 19th July 2017 executed between them.
- (ii). The venue of arbitration shall be in Pune as per the said Leave and License Agreement dated 19th July 2017.

- (iii). Office to inform the Sole Arbitrator regarding his appointment.
- (iv). The Sole Arbitrator is requested to file his disclosure Affidavit of Arbitration under Section 11(8)(i) of the Arbitration and Conciliation Act, 1996 within a period of three weeks from the date of receipt of the notice issued by the Registrar Judicial-I and provide copies to the parties.
- (v). Parties to appear before the Sole Arbitrator on the date fixed.
- (vi). Fees of the Sole Arbitrator will be payable in accordance with the Bombay High Court (O.S.) Rules, 2018.
- (vii). Arbitration Petition is disposed of in the above terms.
- (viii). No costs.

(R. I. CHAGLA, J.)