

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
ARBITRATION PETITION NO.4 OF 2022

Sujata Palande Kumarswamy through POA
Vaishali Sharad Palande ... Petitioner
Vs.
Shirdi Country Inns Private Limited ... Respondent

Mr. Vivek Patil i/b. Mr. Omkar Nevgi for Petitioner.
Ms. Purvi Jain i/b. Vidhii Parnters for Respondent.

CORAM : MANISH PITALE, J.
DATE : OCTOBER 13, 2022

P.C. :

By this petition filed under Section 11 of the Arbitration and Conciliation Act, 1996, the petitioner is seeking appointment of a retired Judge for adjudicating the disputes that have arisen between the parties in the context of the lease deed dated 20.11.2008.

2. The said lease deed contains an arbitration clause at clause 19, which reads thus,

“19. DISPUTE RESOLUTION:

In the event of any dispute or difference arising between the lessors and the lessees hereto concerning or relating to the interpretation of these presents or the interpretation or effect of any provisions thereof or relating to the liability or obligation on the part of any of the parties hereto, the same shall be referred to arbitration of three arbitrators, one to be appointed by each of the parties and the two appointed arbitrators shall appoint the third arbitrator who shall at as the presiding arbitrator. The award passed by them shall be binding on both the parties. The arbitration shall be in Pune and in accordance with and subject to the provisions of the Arbitration and Conciliation Act, 1996 or any statutory modifications or re-enhancements thereof for the time being in force. The agreement shall be subject to Jurisdiction of Pune.”

3. In pursuance of disputes arising between the parties, the petitioner invoked the arbitration clause by sending a notice on 28.01.2020, which

was responded to by the respondent. Thereafter, there was an exchange of communications between the parties wherein it appears that they agreed to appointment of a sole arbitrator despite the above quoted clause providing for appointment of three arbitrators for resolution of the disputes. It is stated by learned counsel for the petitioner that thereafter *corona* intervened and the matter could not progress further. Subsequently, the petitioner was constrained to file the present petition.

4. Upon notice being served, the respondent has appeared through counsel.

5. Learned counsel for the parties, on instructions, submit that the sole arbitrator can be appointed and both the parties have now agreed for a common name. A joint request is made for appointment of Justice Shalini Phansalkar-Joshi (retired Judge), a former Judge of this Court, as the sole arbitrator for adjudicating the disputes between the parties.

6. In view of the consensus between the parties, Justice Shalini Phansalkar-Joshi is appointed as the Sole Arbitrator to adjudicate the disputes between the parties concerning the lease deed dated 20.11.2008. The contact details of the learned Arbitrator are as follows:-

Hon'ble Smt. Dr. Justice Shalini Phansalkar-Joshi

Bungalow No.12,
Bhagya Chintamani Nagar,
Poud Road, Kothurd,
Pune-411 038.
Mob.: 9657188676
E-mail: phansalkarjoshi@gmail.com

7. Learned Arbitrator is requested to communicate her consent and disclosure statement in terms of Section 11(8) and 12(1) of the aforesaid Act to the Registrar (Judicial) of this Court, within three weeks from today.

8. The parties shall appear before the learned Arbitrator at Pune on

10.11.2022. The statement of claim shall be filed within two weeks of appearance of the parties before the learned Arbitrator. Needless to say that the learned Arbitrator shall proceed with the arbitration in accordance with law.

9. The fees of the learned Arbitrator shall be fixed in terms of the Fourth Schedule to the aforesaid Act.

10. Petition stands disposed of.

(MANISH PITALE, J.)

Minal Parab