

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

ARBITRATION APPLICATION NO.62 OF 2021

Raviraj Suryakant Minawala & Ors.

..Applicants.

Vs.

M/s.Varadhish Apparels & Ors.

..Respondents

Mr.Rubin Vakil with Mr.Paresh Shah i/b. M/s.Shah & Sanghavi, for the Applicants.

Mr.Manoj Pandit, for the Respondents.

CORAM : G.S. KULKARNI, J.

DATE : JUNE 22, 2022.

PC.:

1. This is an application filed under section 11 of the Arbitration and Conciliation Act, 1996 (for short, “the Act”) whereby the applicants have prayed for appointment of an arbitral tribunal to adjudicate the disputes and differences between the parties, which have arisen under a Leave and Licence Agreement dated 15 January 2020.

2. Learned Counsel for the applicants has drawn the Court’s attention to Clause 29 of the said agreement to contend that under such clause the parties have agreed that the disputes be resolved by an arbitration to be held in the City of Mumbai, as also Courts of law in Mumbai shall have jurisdiction.

3. It appears from the correspondence as entered between the parties as placed on record, that disputes and differences have arisen between the parties on a claim being made by the applicants for

compensation under Clause 7 of the Leave and Licence Agreement. Such liability is denied by the respondents. The correspondence would also indicate that the respondents themselves had taken a position that the disputes be referred to arbitration. This is seen from paragraph (2) of the letter dated 14 August 2020 addressed by respondents to the applicants as also from the letter dated 26 August 2020 addressed by the respondents to the applicants. As the parties could not mutually appoint an arbitral tribunal, despite receipt of the invocation notice dated 7 October 2020 (page 83) by the respondent, this application came to be filed.

4. Learned Counsel for the respondents on instructions of his client also would not be averse the dispute being referred to arbitration by appointing an arbitral tribunal.

5. In these circumstances, as the essential requirements for this Court to exercise jurisdiction under Section 11(6) of the Act are eminently present, the Court needs to appoint an arbitral tribunal. The application is hence required to be allowed, by the following order:

ORDER

(i) Mr.Vikramaditya Deshmukh, Advocate is appointed as a sole arbitrator to adjudicate the disputes between the parties which have arisen under the Leave and Licence Agreement dated 15 January 2020.

- (ii) The learned sole arbitrator, 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 Prothonotary & Senior Master of this Court, to be placed on record of this application with a copy to be forwarded to both the parties;
- (iii) At the first instance, the parties shall appear before the prospective arbitrator within 10 days from today on a date which may be mutually fixed by the learned sole arbitrator;
- (iv) All contentions of the parties are expressly kept open;
- (v) The application is disposed of in the above terms. No costs.
- (vi) Office to forward a copy of this order to the learned Arbitrator on the following address:

“1W Dilwara West, 1st Floor,
Next to Cooperage Telephone Exchange,
Maharshi Karve Road,
Mumbai-400021.
Mob.No. 9820675957
E-mail : vikram.deshmukh@gmail.com

[G.S. KULKARNI, J.]