

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

ARBITRATION APPLICATION NO. 11 OF 2020

Sharada Jayantilal Shah ..Applicant
Vs.
Jainam Ipsit Shah & Ors. ..Respondents

Mr. Surin Usgaonkar for Applicant.
Mr. Siddharth Ingule for Respondents.

CORAM : G.S. KULKARNI, J.
DATE : JUNE 20, 2022.

P.C.:

1. Heard learned counsel for the parties.
2. This is an application filed under Section 11 of the Arbitration and Conciliation Act, 1996 (for short, "the Act") whereby the applicant has prayed for appointment of an arbitral tribunal for adjudication of the disputes and differences between the parties arising under the Memorandum of Understanding/Joint Venture/LLP Agreement dated 18 June, 2018. There is no dispute in regard to the arbitration agreement which is contained in Article VII of such agreement. There is also an invocation notice dated 31 October, 2019 on which there is no dispute.
3. Learned counsel for the respondents has fairly stated that his clients would not have any objection for this Court to proceed to appoint a sole arbitrator to adjudicate the disputes and differences between the parties under the agreement in question. The only concern is in regard to the allegations which are made against the respondents in the memo of application. Learned counsel for the respondents would contend that the respondents deny these allegations and if necessary, his clients can file an affidavit denying such allegations.

4. Learned counsel for the applicant has fairly stated that the allegations which are made against the respondents need not be pressed in the present proceedings and all contentions of the parties can be kept open to be urged before the arbitral tribunal. In any event there is no scope in the present proceedings to examine allegations and counter allegations on merits of the dispute. I have not, and do not wish to examine them, suffice it to observe that in view of the consensus between the parties, the application for referring the disputes to arbitration is required to be allowed. It is accordingly allowed by the following order:-

ORDER

- (i) Mr. Yogeshwar Bhate, Advocate of this Court, is appointed as a sole Arbitrator to arbitrate the disputes and differences between the parties under the Memorandum of Understanding/Joint Venture/LLP Agreement dated 18 June, 2018.
- (ii) The learned prospective sole arbitrator, before entering the 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) The fees payable to the arbitral tribunal shall be as prescribed under the Bombay High Court (Fees Payable to Arbitrators) Rules, 2018.
- (iv) 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 prospective sole arbitrator;
- (v) All contentions of the parties are expressly kept open;
- (vi) Needless to observe that it would be opened for the respondents to raise their counter-claim.
- (vii) The application is disposed of in the above terms. No costs.

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

“ Address: Flat No.17, 3rd Floor, Om Dnyanesh CHS Ltd.
S.G. Barve Marg, Kurla (W.), Mumbai – 400 070.
Phone No. 022-26500508
E-mail ID: yogeshbhate@yahoo.co.in”.

[G.S. KULKARNI, J.]