

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

MISC. CIVIL APPLICATION NO. 174 OF 2022

Shrinarayan Laxmin arayan Laddha __ Vs. __ ICAD School of Learning Pvt. Ltd. & ors

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. M.R.Joharapurkar, Advocate for the petitioners.

Mr. S.V.Bhutada, Advocate for respondent Nos. 1 to 3

CORAM : AVINASH G. GHAROTE, J.

DATE : 21/10/2022

1] The order dt 7.10.22 reads as under :

Heard Mr. Joharapurkar, learned counsel for the applicant and Mr. Maheshwari, learned counsel for the non-applicant Nos. 4 and 5.

2. There is no dispute regarding the Amenities Agreement dated 27.09.2018 between the applicant and the non-applicant No.1. There is also no dispute regarding the existence of the arbitration clause No. 15 in the Amenities Agreement (page 79). The notice dated 30.10.2021 (page 112) invoking the arbitration clause and the reply by the non-applicant No. 1 dated 08.12.2021 (page 122) is also not in dispute. The only disputed propositions are that the non-applicant Nos. 2 to 5, cannot be made parties to any arbitration proceedings in their personal capacity and the notice invoking the arbitration clause was infirm inasmuch as though the clause No. 15 required mutual appointment of the sole arbitrator, the notice unilaterally proposed to appoint an arbitrator.

3. Insofar as, the first contention it is admitted that the Amenities Agreement is in between the applicant and the non-applicant No.1, The non-applicant Nos. 2 to 5, are not signatories to the same in their personal capacity, as a result of which, it cannot be said, that there is any agreement between them to refer any alleged disputes for

arbitration, in light of which, any reference has to be in between the applicant and non-applicant No.1 alone.

4. Insofar as, the next contention is concerned, though the notice dated 30.10.2021 (page 112), goes a step ahead in naming a proposed arbitrator, it cannot be disputed, that by virtue of the said notice the arbitration clause stands invoked which has been refuted by the non-applicant No.1 by the communication dated 08.12.2021, in light of which, since a dispute exist a case for an appointment of an arbitrator is made out.

5. List the matter on 14.10.2022, on which date, the learned counsels for the parties shall indicate the name of the arbitrator.

2] The applicant and non-applicant No.1 are agreeable to Advocate Mrs. Radhika Bajaj being appointed as an arbitrator.

3] Since there is a consensus in respect of the name, Mrs. Radhika Bajaj, Advocate, she is hereby appointed as an arbitrator to arbitrate in respect of the dispute between the parties hereto.

5] The applicant and non-applicant No.1 shall appear before the Arbitrator on **7.11.2022** at 11.00 a.m. The applicant shall deposit the processing fees before the said date.

6] Misc. Civil Application stands disposed of. No costs.