

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

MISC. CIVIL APPLICATION (ARBN) NO. 1144 OF 2011

Rohit Dilipbhai Popat thr L.Rs. __ Vs. __ Vijay Ramnarayan Sharma and anr

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

Court's or Judge's orders

Mr. R.D.Dharmadhikari, Advocate for the applicant.

Mr. R.L.Khapre, Senior Advocate assisted by Mr. D.R.Khapre, Advocate,
for respondent nos.1 & 2

CORAM : AVINASH G. GHAROTE, J.

DATE : 07/10/2022

1] Heard Mr. Dharmadhikari, learned counsel for the applicant and Mr. Khapre, learned senior counsel for the respondents.

2] It is not in dispute that the deed of partnership dated 3.3.2005 contains an arbitration clause vide term no. 18. Though it is contended by Mr. Khapre, learned senior counsel for the respondents that the respondents had appointed the arbitrator in the year 2011 itself, it is apparent that the proceedings have not been commenced for the last 10 years, in spite of the same.

3] The clause 18 of the deed of partnership, reads as under :

“18. THAT all disputes arising out of the partnership shall be referred for arbitration to arbitrators appointed by the partners under the Indian Arbitration Act, then in force whose decision shall be final and binding on all the partners of the firm.”

It would thus be apparent that the clause contemplates reference of dispute to the arbitration by the arbitrator to be appointed by the partners.

4] A perusal of the clause does not indicate that each of the partner would be entitled to appoint his own arbitrator, as that is not spelt out from the language of the same, considering which it would be appropriate for the decision of the dispute to appoint a sole arbitrator, in view of which Mr.Ashok Babrekar, Retired District Judge from the list of Arbitrators is hereby appointed as an arbitrator to arbitrate the dispute between the parties. The applicant shall deposit the proceeding charges in this Court by 13.10.2022.

5] The parties shall appear before the learned Arbitrator on 15.10.2022. The application is accordingly allowed in the above terms. No costs.

JUDGE

Rvjalit