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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

ARBITRATION PETITION NO.100 OF 2023

Prakash Ram Narayan Khetawat ... Petitioner
Vs.
D & P Associates and others ... Respondents

Mr. S. L. Shah i/b. Shah Legal for Petitioner.

Mr. Purushottam G. Chavan for Respondent No.2.

CORAM : MANISH PITALE, J.

DATE : MARCH 30, 2023

P.C. :

. By this petition filed under Section 11 of the Arbitration and Conciliation Act, 1996, the petitioner has approached this Court seeking appointment of arbitrator for resolution of disputes in the context of the partnership deed dated 17.07.2004. The said partnership deed consists of an arbitration clause, which reads as follows:-

“15. That if any dispute shall arise between the parties hereto in respect of the conduct of the business of the partnership or in respect of interpretation, operation or enforcement of any of the terms and conditions of this deed or in respect of any other matter, cause or thing whatsoever not herein otherwise provided for, the same shall be referred to adjudication to the arbitration of the arbitrator named Shri. Subodh S. Shah, Advocate having address at Flt No.205, Sanghar Apartment, Pune-Satara Road, 8/2, Gultekdi, Pune-411 037 who shall be a neutral person and the decision of the arbitrator shall be final and binding on the parties and their legal representatives.”

2. It is the case of the petitioner that there was also a subsequent document executed in the form of a retirement deed and re-constitution of the partnership firm. In the said document, it was specified that certain steps were to be taken by the concerned parties, failing which, the aforementioned partnership deed would stand revived.

3. It is apparent that the disputes arose between the parties,

particularly between the petitioner and respondent No.2. In that backdrop, on 07.03.2022, the petitioner issued a legal notice to the respondents, specifically invoking the above-quoted clause 15 of the partnership deed and stating that the named arbitrator therein ought to decide the disputes that had arisen between the parties. In response thereto, respondent Nos.1 and 2 sent a reply, *inter alia*, stating that they disagreed with the appointment of the named arbitrator, although they would be agreeable to appointment of an arbitrator in terms of the provisions of the aforesaid Act. Since the agreed procedure between the parties for appointment of arbitrator failed, the petitioner was constrained to file the present petition.

4. Respondent No.2 has appeared through counsel. Insofar as service on respondent No.3 is concerned, learned counsel for the petitioner has brought to the notice of this Court that the notice was served by Registered Post A.D. and that, documents are available to show that the packet containing the notice was delivered to respondent No.3.

5. An affidavit of service along with the said documents shall be placed on record within a week from today.

6. This Court is satisfied that for resolution of disputes between the parties, the prayer made in the present petition for appointment of an arbitrator can be granted, in the interest of justice. The arbitration clause quoted hereinabove specifies the name of an arbitrator available at Pune. It is undisputed that the partnership deed was executed at Pune and that the parties are also residents of Pune. Therefore, the arbitration proceedings can be undertaken at Pune.

7. Considering the nature of disputes between the parties, Mr. V. P. Utpat, a retired District Judge available at Pune, is appointed as the sole

arbitrator for resolution of disputes between the parties. The contact details of the learned Arbitrator are as follows:-

Mr. V. P. Utpat

C-70, Mahaveer Park,
Behind Nexa Showroom,
Pune-Satara Road, Pune - 411 037.
Mobile : 9194230444 / 78.

8. The parties undertake to inform the learned Arbitrator about the order passed today.
9. Learned Arbitrator is requested to communicate his 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 four weeks from today.
10. The fees of the learned Arbitrator shall be fixed in terms of the Fourth Schedule to the aforesaid Act.
11. All questions are kept open.
12. The petition stands disposed of.

(MANISH PITALE, J.)

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