

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
ARBITRATION PETITION NO.68 OF 2022

Amit Sanjay Chitnis, Partner M/s. J.M.U. Enterprises	...	Petitioner
Vs. Aditya Deepak Dhuri and another	...	Respondents

Mr. Swanand Kulkarni for Petitioner.
Ms. Chinmayee Ghag for Respondents.

CORAM : MANISH PITALE, J.
DATE : MARCH 09, 2023

P.C. :

1. By this petition filed under Section 11 of the Arbitration and Conciliation Act, 1996, the petitioner is seeking appointment of arbitrator in the light of an arbitration clause in a deed of partnership executed between the parties.

2. As a consequence of disputes arising between the parties, the petitioner invoked the arbitration clause by a notice of arbitration dated 17.04.2021. It appears that prior to issuance of the said notice, the petitioner had caused a notice to be issued raising certain demands against the respondents, in reply to which, the respondents conceded to the fact that there is indeed an arbitration clause in the partnership deed. However, there is no response on the part of the respondents to the arbitration notice issued by the petitioner, as a consequence of which, the present petition came to be filed.

3. Upon respondents appearing through counsel before this Court, the petition is taken up for hearing and disposal. Learned counsel for the respondents submits that the reply affidavit is filed. The same is

not found on record. Nonetheless, the learned counsel appearing for the respondents submits that the allegations of siphoning off funds are made against the respondents, which has colour of criminality and that therefore, the present dispute cannot be resolved by arbitration. The existence of the arbitration clause in partnership deed is not denied.

4. This Court has considered the documents on record. The arbitration clause is indeed found in the partnership deed. The nature of allegations / claims raised on behalf of the petitioner against the respondents does show that arbitral disputes have arisen, and that therefore, the matter can go for arbitration.

5. The arbitration clause provides that if the parties agree then the matter can be placed before a sole arbitrator for resolution of disputes and if there is disagreement, each party would appoint its own arbitrator. A perusal of the prayer clause shows that the petitioner had prayed for appointment of an arbitrator under Section 11 of the said Act.

6. Learned counsel for the petitioner submits that in the notice invoking arbitration, the petitioner had indicated that he would prefer resolution of disputes by an institutional arbitrator.

7. But, considering the nature of disputes between the parties, this Court is of the opinion that a sole arbitrator could be appointed for resolution of disputes between the parties. In view of the nature of disputes and the extent of claims raised by the petitioner, it would be appropriate that an advocate is appointed as the sole arbitrator.

8. Learned counsel for the respondent submitted that it would be

appropriate that the arbitrator so appointed is available at Navi Mumbai.

9. In that light, learned counsel for the parties have jointly suggested the name of Advocate Sumit Kothari, available at Navi Mumbai, to be appointed as the sole arbitrator.

10. In view of the above, Mr. Sumit Kothari, Advocate is appointed as the sole arbitrator for resolution of disputes between the parties. The contact details of the learned arbitrator are as follows:-

Advocate Sumit Kothari

Office No.14 & 15, Gundecha Chambers,
Ground Floor, Ash Lane, Nagindas Master Road,
Fort, Mumbai 400 023.
Mob. No.: 80879 70300
Email : sumitskothari@gmail.com

11. The parties undertake to inform the learned Arbitrator about the order passed in the present petition.

12. The learned Arbitrator is requested to submit his consent and disclosure statement in terms of Sections 11(8) read with 12(1) of the aforesaid Act within four weeks to the Registrar (Judicial) of this Court.

13. The fees of the learned Arbitrator shall be fixed in terms of the Fourth Schedule to the aforesaid Act.

14. All questions are kept open.

15. The petition stands disposed of accordingly.

(MANISH PITALE, J.)