

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

ARBITRATION PETITION NO. 170 OF 2022

Rupesh Subhashrao Deshmukh & Anr.

...Petitioners

Versus

Rupesh Uttamrao Nikam & Anr.

...Respondents

* * *

- Mr. Sachin H. Deokar, for the Petitioners

* * *

CORAM : MANISH PITALE, J

DATE : 03rd FEBRUARY, 2023.

P. C. :

1. By this petition filed under Section 11(6) of the Arbitration and Conciliation Act, 1996, the Petitioners are seeking an order for appointment of Arbitrator for resolution of disputes between the parties.

2. The learned Counsel for the Petitioner has invited attention of this Court to clause 23 of Leave and License Agreement dated 27th May, 2016, executed between the parties. The Petitioner is the Licensor. Clause 23 of the said agreement reads as follows :

“23) Disputes between the parties :-

Any disputes arising between the Licensor and Licensee shall be referred to common Arbitrator duly appointed by both the parties hereto, and Arbitrators award would be final and binding on both the parties. The appeal against the award would be subject to permission from Hon’ble Court Judge of Pune Judicature, Bench at Pune, for which the Licensee and Licensor have agreed and

confirmed.”

3. It appears that disputes arose between the parties, as a consequence of which, the Petitioner issued notices to the Respondents, including notice dated 20th December, 2021, wherein the Petitioners invoked the Arbitration Clause and suggested the name of an Advocate, available at Pune, for being appointed as the sole Arbitrator.

4. By a reply dated 03rd January, 2022, the Respondent did not accept the proposal of appointment of the said Advocate as the sole Arbitrator. In this backdrop, the Petitioners were constrained to file the present petition.

5. On 25th November, 2022, this Court issued notice for final disposal to the Respondents. The office note shows that both the Respondents have been duly served. They have chosen not to appear before this Court.

6. Considering the material brought to the notice of this court, it is obvious that appointment of an Arbitrator could not take place as per the agreed procedure between the parties and therefore, this Court is inclined to exercise jurisdiction and to allow the present petition.

7. Considering the nature of the disputes between the

parties and the fact that the Arbitration Clause specifies that the proceedings shall be undertaken at Pune, **Advocate M.K. Haridas Nair**, available at Pune, is appointed as the sole Arbitrator. The details of the learned Arbitrator are as follows :

Mr. M.K. Haridas Nair,

Off.: 213, "A" wing, 2nd Floor, Jai Ganesh Vision,

Off Mumbai-Pune Road, Akrudi, Pune - 411 035.

Tel. No. (O) 020 - 27249062, (R) 020 - 27652727,

Mob. No. 9766708369

8. The Petitioners undertake to inform the learned Arbitrator immediately about the order passed today.

9. The learned Arbitrator is requested to communicate his consent and Disclosure Statement as per Section 11(8) read with 12(5) of the aforesaid Act, within four weeks to the Registrar (Judicial) of this Court.

10. The Fees of the learned Arbitrator shall be as per Schedule IV to the aforesaid Act.

11. All questions are kept open to be determined by the learned Arbitrator.

12. The petition stands disposed of.

(MANISH PITALE, J.)