



Gaikwad RD

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
ARBITRATION PETITION NO.75 OF 2019

Bridgestone India Pvt. Ltd.

...Petitioner

Versus

Mr. Boominathan Sampath, Proprietor of M/s.
Shri. Sakti Tyres

...Respondent

Ms. Leona Furtado, *with Nadeem Shama & Prashant Bothe, i/b. PAN
India Legal Services LLP, for the Applicant.*
None *for the Respondent.*

CORAM : Dr. Neela Gokhale, J.
DATED : 3rd November 2023

PC:-

1. Applicant is seeking appointment of a sole arbitrator to adjudicate the disputes arising between the parties out of the Dealership Agreement dated 13th December 2014.

2. The Applicant is engaged in the business of manufacturing, importing and selling of passenger car, Truck and Bus radial tyres in India and the Respondent is engaged in the business of marketing and selling tyres on a dealership basis. By an agreement dated 13th December 2014, the Applicant appointed Respondent as its Dealer in B-Shop category and supplied various tyres and tubes to the

Respondent. Applicant raised invoices from time to time, but the Respondent failed to settle the outstanding amount in terms of the contract. Applicant through its Advocate was constrained to issue a letter dated 22nd February 2019 to the Respondent terminating the Dealership Agreement for breach of contract and also called upon the Respondent to pay the outstanding amount. There was neither any reply to this letter or did the Respondent settle the dues. The Applicant also invoked the arbitration clause in the Dealership Agreement vide the said notice.

3. Ms. Furtado, learned Counsel appears for the Applicant. This Court by its order dated 28th August 2019 had directed issuance of notice to Respondent returnable on 11th September 2019 and had permitted the Applicant to serve the Respondent by all permissible modes including hand delivery and had directed the Applicant to file an affidavit of service before the returnable date. The Respondent failed to appear either in person or through Counsel on the following date, hence by an order dated 18th September 2019, the Applicant was permitted to serve the Respondent by substituted mode of service. Accordingly, the Applicant has complied with the order dated 18th September 2019 and caused publication of the public notice in two newspaper namely 'Indian Express' and 'Dinamani' dated 29th January 2020. Another affidavit of service by way of publication affirmed on 3rd February 2020 has been placed on record.

4. Clause 20 of the Dealership Agreement reads as thus:

“20. Arbitration: Regardless of the place of contracting, place of performance or otherwise, any dispute, controversy or claims arising out of or relating to this Agreement or the breach, termination or invalidity thereof, shall be referred to the arbitration of a sole arbitrator in accordance with and subject to the provisions of Arbitration and Conciliation Act, 1996 and rules thereto as amended from time to time, who shall be the Managing Director of BSID or nominated by him. The award passed by such arbitrator shall be final and binding between the parties. The arbitration shall be held at Pune. The Award shall be made in writing and the language of the proceedings will be English. Any payment due from the Dealer to BSID as per terms of this Agreement shall not be withheld by the Dealer unless same happens to be a matter referred to the arbitrator and the Courts at Pune shall have the exclusive jurisdiction to deal with the arbitration proceedings and the awards in accordance with law.”

5. Considering the statements made by Ms. Furtado regarding, disputes having arisen between the parties and on perusing the documents on record, I am satisfied that the relief sought needs to be granted. Hence, I pass the following order:

ORDER

1. Smt. Nisha S. Ruikar, Advocate, is appointed as a Sole Arbitrator to enter reference and adjudicate the disputes arising between the parties out of the Dealership Agreement dated 13th December 2014. The seat of the arbitration shall be Pune.
2. The learned Sole Arbitrator shall forward a statement of disclosure as per the requirement of Section 12(1) of

Arbitration and Conciliation Act 1996 to the Prothonotary and Senior Master of this Court to be placed on record of this Petition with a copy forwarded to both the parties.

3. At the first instance the parties shall appear before the learned Arbitrator within a period of ten days from the date of uploading of this order or on such date that may be fixed by the Sole Arbitrator.
4. All contentions of the parties on merits of the disputes are expressly left open.
5. The fees payable to the Arbitral Tribunal shall be in accordance with the Bombay High Court (Fee payable to the Arbitrator) Rules, 2018, as amended which shall be borne by the parties in equal proportion.
6. The Petition is disposed of in the above terms. There will be no order as to costs.
7. Office to forward a copy of this order to the learned Sole Arbitrator on the following address:

"Smt. Nisha S. Ruikar, Advocate,

**Office No.14, 4th Floor, Shree Chambers,
Opp: Gate No.4 of Shivajinagar District Court,
Besides Family Court Bldg., Pune 411005,
Telephone No.02025533353,**

**OfficeMob:09422032300,
E-mail: nisha.ruikar@gmail.com;
ruikar.office@gmail.com"**

(Dr. Neela Gokhale, J)