

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

ARBITRATION PETITION NO. 149 OF 2022

Venkateshwara hatcheries Pvt. Ltd.

...Petitioner

Versus

Mr. Dheeraj Saraswat

Proprietor of M/s. Janta Medical Store

...Respondent

- Ms. Swatantri Waghmare, for the Petitioner
- Mr. Sharad Bansal, Mr. Deepak Shukla i/by B.N. Shukla & Co., for Respondent.

CORAM : MANISH PITALE, J

DATE : 07th JANUARY, 2023.

P. C. :

1. This is a petition filed under Section 11 of the Arbitration and Conciliation Act, 1996, in the context of a Super Distributorship Agreement executed between the parties on 18th September, 2017. The said agreement contained an Arbitration Clause, which reads as follows :

“32. Any disputes arising out of this agreement shall be settled by arbitration by and under the rules of arbitration under The Arbitration and Conciliation Act, 1996. All proceedings in such arbitration shall be in Pune. Courts in Pune shall alone have jurisdiction in matters involving any dispute pertaining to this agreement.”

2. It appears that disputes arose between the parties, as a consequence of which, the Petitioner was constrained to issue notice

dated 20th November, 2021, invoking the Arbitration Clause and proposing appointment of sole Arbitrator at Pune. Despite service of the said notice on the Respondent, he failed to respond, as a consequence of which, there was failure in appointment of Arbitrator as per agreed procedure.

3. In these circumstances, the present petition was filed, wherein notice was issued and the Respondent entered appearance through Counsel.

4. The learned Counsel appearing for the Respondent could not dispute the fact that the Super Distributorship Agreement contained the above quoted Arbitration Clause. It is also evident from the claims made by the Petitioner that disputes arose between the parties and that the Petitioner is claiming certain amounts from the Respondent.

5. Hence, this Court is convinced that sufficient grounds exist for exercising jurisdiction under Section 11(6) of the said Act, for appointment of a sole Arbitrator, for resolution of disputes between the parties. Considering the fact that the Arbitration Clause stipulates the place of Arbitration as Pune, Mr. S. M. Deshmukh, a retired District Judge, who is available at Pune, is appointed as the sole Arbitrator. The details of the learned Arbitrator are as follows :

Mr. S. M. Deshmukh,
Block No. 13/14, Building No. "O" Kumar Park-off,
Kondhwa Road, Bibwewadi, Pune - 411 037.
Phone No. 20 - 24216979

6. The learned Counsel for the parties undertake to inform the learned Arbitrator about the order passed today.
7. The learned Arbitrator is requested to communicate his consent and Disclosure Statement as per Section 11(8) r/w Section 12(1) of the said Act, within four weeks to the Registrar (Judicial) of this Court.
8. The fees of the learned Arbitrator shall be as per Schedule IV to the Aforesaid Act.
9. All questions are kept open.
10. The petition stands disposed of.

(MANISH PITALE, J.)