

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

ARBITRATION PETITION NO. 182 OF 2022

Smt. Vanita Shankar Ghule ...Petitioner
Vs.
Smt. Pushpa Shankar Ghule and Ors. ...Respondents

Ms. Pallabi Chatterjee h/b. Hemant Ghadigaonkar, for the
Petitioner.
Mr. Sagar R. Jadhav, for the Respondent No.5.
Mr. Jaydeep Deo, for the Respondent No.6.

CORAM : MANISH PITALE, J.
DATE : 13 JANUARY 2023

P.C.

Digitally
signed by
MAMTA
AMAR
KALE
Date:
2023.01.13
18:35:51
+0530

. Heard learned counsel for the parties.

2. This petition is filed under Section 11 of the Arbitration and Conciliation Act, 1996, for appointment of an arbitrator in the context of arbitration clause contained in a development agreement. The arbitration clause in the agreement dated 23/4/2010 reads as follows:

31. Any dispute arising out of this agreement shall be referred to arbitration of the Arbitrator/s acceptable to all the parties in pursuance of the provisions of the

Arbitration and Conciliation Act, 1996, or any other law then prevailing, and the decision of the Arbitrator /s shall be binding on both the parties.

3. It appears that the petitioner and respondent Nos.1 to 5 are members of a joint family and the respondent No.6 is the developer. Some disputes arose between the family members, which led to invocation of arbitration clause on behalf of the petitioner. By a notice dated 25/2/2022, the petitioner proposed certain names from amongst whom an arbitrator could be appointed.

4. It appears that there was no response from the respondents as regards the aforesaid notice, as a result of which, the petitioner filed the present petition.

5. Since the procedure agreed between the parties did not lead to appointment of arbitrator, this Court can certainly exercise jurisdiction under Section 11(6) of the said Act.

6. In these circumstances, as the parties are from Pune and the subject matter of dispute and the aforesaid agreement was executed in Pune, it would be appropriate that an arbitrator available at Pune is appointed

7. Accordingly, Smt. Dr. Justice Shalini Phansalkar-Joshi, former Judge of this Court, is appointed as the sole arbitrator for resolving the disputes between the parties.

8. The details of the sole arbitrator are as follows:

Smt. Dr. Justice Shalini Phansalkar-Joshi
Bungalow No.12, Bhagya Chintamani Nagar,
Poud Road, Kothrud, Pune – 411 038.
Mobile : 9657188676
Email : phansalkarjoshi@gmail.com

9. The parties undertake to inform the learned Arbitrator immediately about the order passed today.

10. The learned arbitrator is requested to communicate her consent and disclosure statement as per Section 11(8) and 12(1) of the aforesaid Act, within four weeks from today to the Registrar (Judicial) of this Court. The fees of the learned arbitrator shall be as per schedule IV to the said Act.

11. All questions, including the question of limitation, are kept open to be decided by the learned arbitrator.

12. The petition stands disposed of, in the aforesaid terms.

MANISH PITALE, J.