

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
ARBITRATION PETITION NO. 169 OF 2022**

Ajay Ramesh Agrawal	...	Petitioner
vs.		
Sudhakar Ramdayal Behede	...	Respondent

Mr. Tejpal S. Ingale a/w. Ms. Priyanka A. Babar for petitioner.

Mr. Nitin P. Deshpande a/w. Ms. Kanchan Pathak for respondent.

**CORAM : MANISH PITALE, J
DATE : 18th JANUARY, 2023**

P.C. :

. This petition is filed under Section 11(6) of the Arbitration and Conciliation Act, 1996, for appointment of arbitrator, in the context of arbitration clause, contained in Memorandum of Understanding dated 12th December, 1997. The arbitration clauses read as follows:

- “11. It is expressly understood and agreed by and between the parties hereto that in case any dispute arises from and out of any of the clauses of these presents, the same would be referred to an ARBITRATOR viz. Shri ABASAHEB DHAMALE, whose decision would be final and binding upon both the parties.
12. In case of any dispute outside the competence of the Arbitrator, the PUNE COURT would have the jurisdiction in all the matters.”

2. It appears that the disputes arose between the parties as a consequence of which, by notice dated 5th March, 2018, the petitioner invoked the arbitration clause, by addressing a communication to the named arbitrator and also, sending a copy thereof to the respondent. There was no response to the said communication. Thereafter, on 4th April, 2022, the petitioner sent another such communication to the name arbitrator as well as the respondent herein. Sufficient material is placed on record to indicate that this notice was also served, but there was no response.

3. The learned counsel for the petitioner submits that since the agreed procedure for appointment of arbitrator had failed, this Court may exercise jurisdiction to appoint the sole arbitrator.

4. Upon notice being issued, the respondent appeared through counsel and filed reply affidavit, wherein signature of the respondent is denied on the Memorandum of Understanding. Hence, the existence of the said document itself is disputed. An attempt is made to show that the signature on the said document is not that of the respondent.

5. This Court is of the opinion that the said objection can be raised by the respondent before the learned arbitrator. At this stage, there is sufficient material on record to show that the parties can be relegated to arbitration.

6. Accordingly, Mr. Vasant Sitaram Mundhe, Retired District Judge, is appointed as the sole arbitrator for resolution of disputes between the parties. Details of the learned arbitrator are as follows:-

D-12, Himali Residential CHS,
Erandwane, Pune – 411 004.
Mob.: 98812 48430

7. Parties undertake to inform the learned arbitrator immediately about the order passed today.
8. The learned arbitrator is requested to submit his consent and disclosure statement in terms of Sections 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 the Fourth Schedule to the said Act.
9. All questions are left open to be decided by the learned arbitrator.
10. The petition stands disposed of.

(MANISH PITALE, J)

Priya Kambli