

jsn

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

ARBITRATION PETITION NO.142 OF 2021

Mr. Rajesh Arjun Mali

...Petitioner

Versus

Resu Infratech and Ors.

...Respondent

Harsh Nishar with Rohit Chavan h/f. Amey Deshpande i/b. Vishal
Kale for the Petitioner.

CORAM : R.I. CHAGLA J

DATE : 29TH NOVEMBER, 2023

ORDER :

1. By this Arbitration Petition, the Petitioner is seeking appointment of Arbitrator as per Clause 41 of Limited Liability Partnership Agreement of Resu and Mali Developers LLP dated 8th October, 2016.

2. The learned Counsel appearing for the Petitioner states that pursuant to the Order dated 28th November, 2023, the Respondent No.3 has been deleted as party Respondent in the

Petition. It is recorded in the said Order dated 28th November, 2023 that the Respondent Nos.1 and 2 against whom the Arbitration Petition is directed have been served by way of substituted service and this fact had been mentioned in the order dated 17th October, 2023. However, none appears for the Respondent Nos.1 and 2.

3. Having perused the LLP agreement of Resu and Mali Developers LLP dated 8th October, 2016 and in particular Clause 41 thereof, there is an arbitration agreement between the Petitioner and the Respondent No.1 of whom Respondent No.2 is a Director. Under the arbitration agreement all disputes between the partners and the LLP arising out of LLP agreement is to be resolved and which may be referred to arbitration as per the provisions of the Arbitration and Conciliation Act, 1996.

4. The Petitioner has invoked Clause 41 of the agreement by notice issued on 31st August, 2019 to the Respondents, wherein the disputes have been mentioned and the Respondents have been called upon to consent to the appointment of Arbitrator for adjudicating the disputes. The Notice has been replied to by the Advocate for the Respondents on 10th September, 2019, wherein

they have not consented to the appointment of Arbitrator.

5. Having considered the notice invoking arbitration and the response thereto, it would be appropriate to appoint an arbitrator to adjudicate the disputes between the Petitioner and Respondent. The Respondent despite notice has failed to make an appearance. In view thereof, the following order is passed:-

(i) Shri M.N. Godbole, Retired District Judge is appointed as Arbitrator to adjudicate the disputes between the Petitioner and Respondent as per Clause 41 of the Limited Liability Partnership Agreement of Resu and Mali Developers LLP dated 8th October, 2016.

(ii) The venue of arbitration shall be in Pune.

(iii) Office to inform the Sole Arbitrator regarding his appointment.

(iv) The Sole Arbitrator is requested to file his Disclosure Affidavit of Arbitration under Section 11(8)(i) of the Arbitration

and Conciliation Act, 1996 within a period of three weeks from the date of receipt of the notice issued by the Registrar Judicial-I and provide copies to the parties.

(v) Parties to appear before the Sole Arbitrator on the date fixed.

(vi) Fees of the Sole Arbitrator will be payable in accordance with the Bombay High Court (O.S.) Rules, 2018.

(vii) Arbitration Petition is disposed of in the above terms.

viii) No costs.

[R.I. CHAGLA J.]