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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

ARBITRATION PETITION NO. 10 OF 2023

Darshan Mahendra Nibjiya ... Petitioner

Versus

Jayantilal Tarachand Oswal ... Respondent

Mr. Sanket Bora a/w Ms. Vidhi Punmiya i/b SPCM Legal for the
Petitioner.

Mr. Sachin S. Punde for the Respondent.

CORAM : R.I. CHAGLA, J.

DATED : 7 August 2023

ORDER :

1 By this Arbitration Petition the Petitioner is seeking
appointment of an Arbitrator to commence Arbitration proceeding as
per Clause 14 of the Partnership Deed dated 22.06.2012.

SHARAYU
PANDURANG
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2 The learned Counsel appearing for the Respondent has
objected to the reference to arbitration on the ground that the
Petitioner has admitted having received the amount which they are
claiming in their notice invoking arbitration. He has submitted that

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the Petitioner was party to Reconstitution of Partnership Deed dated 04.08.2017 wherein the amounts claimed have been admitted to have been received by the Petitioner.

3 Further, reliance has been placed on ledger account where the payments made to the Petitioner have been disclosed.

4 The learned Counsel for the Petitioner has referred to the affidavit in rejoinder wherein the Petitioner has taken the stand that the Reconstitution of Partnership Deed dated 04.08.2017 is a fake document. Further stand is taken that the ledger account is fabricated and unproved and Petitioner's signature on the document appears to be altered.

5 Having considered the averments in the affidavit in reply and rejoinder as well as in the Petition, in my view by keeping all rights and contentions open, the parties may be referred to arbitration under clause 14 of the Partnership Deed dated 22.06.2012. Accordingly, the following order is passed :

- i) Mr. Makarand D. Adkar, Advocate practicing before the Supreme Court is appointed as Arbitrator on behalf of the Petitioner.

- ii) Advocate Mr. Haridas Govinddas Gujarathi is appointed as Arbitrator on behalf of the Respondent.
- iii) The Arbitrators shall appoint Justice Shalini Phansalkar-Joshi (retired Judge of this Court) as the Presiding Arbitrator.
- iv) The venue of arbitration shall be in Pune.
- v) Office to inform the Sole Arbitrator regarding appointment.
- vi) The Arbitrators are requested to file the 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.
- vii) Parties to appear before the Arbitrators on the date fixed.
- viii) Fees of the Arbitrators will be payable in accordance with the Bombay High Court (O.S.) Rules, 2018.

ix) Arbitration Petition is disposed of in the above terms.

x) No costs.

[R.I. CHAGLA J.]