

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

MCA No.121/2022

Ashwin V The Hon'ble Collector, Nagpur and others

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders

Mr. S.P. Bhandarkar, Adv. for applicant.

Mr. N.R. Patil, AGP for non-applicant no.1.

CORAM : AVINASH G GHAROTE, J.

DATE : 20-01-2023

Mr Patil, learned AGP for the non applicant no.1, does not dispute the execution of the various contracts on 01-01-03 between the applicant and the various Sub Divisional Officers of the multiple sub divisions as placed on record. He also does not dispute that all these agreements contain an arbitration clause for referring any dispute in case the same arises, which is Clause 5 of the original agreement dated 01-01-03 (pages 17, 29, 35, 41, 47, 53, 59, 65, 71, 77, 83, 89 and 95). He also does not dispute that there have been extensions to the original agreements from time to time and the last such extension was on 03-06-2011 for a period of 5 years. He also does not dispute that the arbitration agreement in spite of the extension is binding upon the non applicants, and there was unequivocal intention to arbitrate. By the notice dated 01-12-21

(pg 163) the arbitration clause has been invoked (para 11 page 172), on account of disputes have been arisen between the parties as they claimed that due to non cooperation by the non-applicants, the applicant has suffered losses for which the non-applicants are responsible. There has been no response to notice dated 1-12-21 as as result of which the present application has been filed.

2. Mr Patil, learned AGP for the non applicants, submits that the non applicants are not responsible for the losses and it is the applicant who is responsible for the same. He however does not dispute, that the original agreement dated 1-03-03 containing the arbitration clause still continuous to be in force. In view of which, since there is a dispute, an arbitrator will have to be appointed.

3. The last such agreement (page 98) is not disputed by Mr Patil, learned AGP and the same is extended for a period up to 31-12-20, which is the position in respect of all the non applicants. The agreement specifically makes a mention about the earlier contracts and states that this extension of agreement shall form part of the original contract along with the above referred amendments, annexures and various related correspondence and letters.

4. Since the existence of the arbitration clause is not disputed and since the dispute has arisen which is indicated by the notice dated 1-12-21, it would be appropriate to appoint an arbitrator, considering which, Shri Justice V.M. Deshpande, former Judge of this Court is hereby appointed as an Arbitrator to decide the dispute between the parties. The parties shall appear him before on 30-1-23 and shall submit a copy of this order for his perusal. The processing charges shall be deposited in this Court by 27-01-23 without which the copy of the order, shall not be issued to the applicant.

5. Application is accordingly disposed of. No costs.

JUDGE