



**IN THE JUDICATURE OF HIGH COURT AT BOMBAY  
BENCH AT AURANGABAD**

**960 ARBITRATION APPLICATION NO. 9 OF 2023**

RAJENDRAKUMAR S/O MADANLAL SURANA

VERSUS

MRS. SANGEETA W/O KAILAS AGRAWAL

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Advocate for Applicant : Mr. Bhandari Anand P.  
Advocate for Respondents No.1 and 2 : Mr. A. S. Bajaj  
Advocate for Respondents No.3 : Ms. Harshita M. Manglani  
R/4 To 8 Deleted (as Per Courts Order Dtd. 22/06/2023)

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**CORAM : ARUN R. PEDNEKER, J.**

**Dated : January 09, 2024**

**PER COURT :-**

1. The applicant/original plaintiff has filed the suit for dissolution of partnership firm and for its accounts. In the said suit filed by the applicant/original plaintiff against the respondents, the respondents raised plea under Section 8 of the Arbitration and Conciliation Act, 1996 contending therein that the arbitration agreement exist between the parties and as per mandate of the Section 8 of the Arbitration and Conciliation Act, suit cannot be entertained.
2. In view of the objection raised, the petitioner issued a notice for

appointment of Arbitration as per Clause 20 of the Deed of Partnership dated 07/07/2009. In response thereto, the respondents accepted the agreement and proposed the names of four Chartered Accountants for appointment as arbitrator. The petitioners being not agreeable for the same, filed the present application for appointment of Arbitrator invoking Section 11 (6) of the Arbitration and Conciliation Act, 1996.

3. Deed of Partnership dated 07/07/2009 so also Deed of Reconstitution of Partnership provides for Arbitration. Paragraph No.15 of the Deed of Reconstitution of Partnership dated 16/08/2000 reads as under :-

*"15. In case of difference of opinion and conflicts between the partners, the matter shall be referred to one arbitrator or three arbitrators as mutually agreed or decided. The decisions of one such Arbitrator or Arbitrators shall be final and binding upon all the partners."*

4. The parties are ad idem and have agreed to appoint Mr. Justice P. V. Hardas for Arbitration of the disputes between the parties. Accordingly, the arbitration application is disposed of with following

order :

a] **Appointment of Arbitrator :-**

Mr. Justice P. V. Hardas, is appointed to act as sole arbitrator to adjudicate upon the disputes between the parties.

b] **Communication to Arbitrator of this order :**

(i) A copy of this order will be communicated to the learned Sole Arbitrator by the Advocates for the applicant within one week from the date this order is uploaded.

(ii) In addition, within one week of this order being uploaded, the Registry will forward an ordinary copy of this order to the learned Sole Arbitrator at the following post and email addresses :

|                   |   |                                                                                               |
|-------------------|---|-----------------------------------------------------------------------------------------------|
| <b>Arbitrator</b> | : | Mr. Justice P. V. Hardas                                                                      |
| <b>Address</b>    | : | B-301, A2Z Multitrade Pvt.<br>Ltd., P-25/1 situated at MIDC<br>Chikalthana, Aurangabad (M.S.) |
| <b>Phone No.</b>  | : | 9623235939                                                                                    |
| <b>Email</b>      | : |                                                                                               |

c] **Disclosure :**

The learned Sole Arbitrator is requested to forward the necessary statement of disclosure under Section 11 (8) read with Section 12 (1) of the Arbitration Act to the Registrar of this Court,

referencing this arbitration application, as soon as possible, and in any case sufficiently before entering upon the reference to arbitration. That statement will be retained by the Registrar on the file of this application. Copies will be given to both sides.

d] **Appearance before the Arbitrator :**

Parties will appear before the learned Sole Arbitrator on such date and at such place as the learned Sole Arbitrator nominates and the parties to obtain appropriate directions from the arbitrator in regard to fixing a schedule for completing pleadings, etc.

e] **Contact / communication information of the parties :**

Contact and communication particulars are to be provided by both sides to the learned Sole Arbitrator within one week of this order being uploaded. The information is to include a valid and functional email address.

f] **Section 16 application :**

The respondent is at liberty to raise all questions of jurisdiction within the meaning of section 16 of the Arbitration Act. All contentions are left open.

g] **Interim Application/s :**

(i) Liberty to the parties to make an interim application or interim applications including (but not

limited to) interim applications under Section 17 of the Arbitration & Conciliation Act, 1996 before the learned Sole Arbitrator.

(ii) Any such application will be decided in such manner and within such time as the learned Sole Arbitrator deems fit.

**h] Fees :**

The arbitral tribunal's fees shall be governed by the Bombay High Court (Fee Payable to Arbitrators) Rules, 2018.

**i] Sharing of costs and fees :**

Parties agree that all arbitral costs and the fees of the arbitrator will be borne by the two sides in equal shares in the first instance.

**J] Venue and seat of arbitration :**

Seat of the arbitration would be governed by the provisions of the agreement executed between the parties.

( ARUN R. PEDNEKER, J. )