

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
COMMERCIAL ARBITRATION PETITION NO. 11 OF 2023

Pratik Paras Oswal

...Petitioner

Vs.

Popatlal Khemchand Shah & Ors.

...Respondents

Mr. Ashish M Verma for the Petitioner.

Mr. Bhushan Jadhav i/by Chetan Patil for Respondent Nos.1 to 3.

CORAM : ARIF S. DOCTOR, J.

DATE : 25TH NOVEMBER, 2024

P.C.:-

1. The present Petition is filed under Section 11 of the Arbitration and Conciliation Act 1996 for appointment of an Arbitrator in respect of the disputes and differences that have arisen between the parties from a Partnership Deed dated 29th June, 2015.

2. Learned Counsel for Respondent Nos.1 to 3 has entered appearance and has not opposed the appointment of an Arbitrator.

3. Respondent Nos.4 and 5 have though served not entered appearance.

4. Learned Counsel for the Petitioner has placed reliance upon an Affidavit of Service dated 27th September, 2024 to prove service of the application upon Respondent Nos.4 and 5.

5. I have perused a copy of the said Affidavit and I am satisfied that Respondent Nos.4 and 5 though served have not appeared. Therefore, there is no impediment today in taking up the matter for hearing.

6. Learned Counsel for the Petitioner points out that the Petitioner and the Respondents are all partners of the said firm. He invites my attention to the Partnership Deed from which he points out that the same contains an arbitration clause namely clause 25 of the said Partnership Deed. He then invites my attention to the notice invoking arbitration and points out that the Petitioner has duly invoked arbitration against all the Respondents including Respondent Nos.4 and 5.

7. Given this, I find since there is today no dispute that there exists an arbitration agreement or the fact that the same is duly invoked, I deem it fit to allow the Petition in terms of prayer clause (a) which reads thus:-

“a. This Hon’ble Court be pleased to appoint a Sole Arbitrator under S.11 of the Arbitration and Conciliation Act, 1996.”

8. I appoint Mr. N. G. Patil, former District Court Judge, Kolhapur to act as a Sole Arbitrator in respect of the disputes and differences that have arisen between the parties on the following terms:-

TERMS OF APPOINTMENT

(a) **Appointment of Arbitrator:** Mr. N. G. Patil, former District Court Judge, Kolhapur is hereby nominated to act as a Sole Arbitrator to decide the disputes and differences 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 Petitioner within one week from the date this order is uploaded.
- (ii) The Advocates for the Petitioner will forward an ordinary copy of this order to the learned Sole Arbitrator at the following postal and email addresses:

Arbitrator/s **Mr. N. G. Patil, former District Court Judge, Kolhapur.**

Address Office No.D-6, Atharva
Empire, Tarabai Park,
Kolhapur.

Mobile 8806634340

Email advpnpatil@gmail.com

(c) **Disclosure:** The learned Sole Arbitrator is requested to forward, in hard copy or soft copy (or both), the necessary statement of disclosure under Section 11(8) read with Section 12(1) of the Arbitration Act to Advocates for the parties as soon as possible. The

Advocates for the Petitioner will arrange to file the original statement in the Registry. If the statement is forwarded in soft copy, a print out of the covering email is also to be filed in the registry.

- (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 to obtain appropriate directions 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. The information is to include functional email addresses and mobile numbers.
- (f) **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. Any such application will be decided in such manner and within such time as the learned Sole Arbitrator deems fit.
 - (ii) The learned Sole Arbitrator is requested to dispose of all interim applications at the earliest.
- (g) **Fees:** The arbitral tribunal's fees shall be governed by the Bombay High Court (Fee Payable to Arbitrators) Rules, 2018.
- (h) **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.

- (i) **Consent to an extension if thought necessary.** Parties immediately consent to a further extension of up to six months to complete the arbitration should the learned Sole Arbitrator find it necessary.
 - (j) **Venue and seat of arbitration.** Parties agree that the venue and seat of the arbitration will be in Kolhapur.
9. The Petition is disposed of in these terms. No costs.
10. Affidavit of Service is taken on record.

(ARIF S. DOCTOR, J.)