

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
ARBITRATION PETITION NO.124 OF 2023

Nilam Pradip Shah .. Petitioner

Versus

M/s N.N. Enterprises & Ors. .. Respondents

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Ms.Pratima Soundalkar with Ameet Mehta and Jill Rathod i/b
Solicis Lex for the Petitioner.

Ms.Pranjali Bhandari for the Respondent No.2.

Mr.Sanjay Koban for the Respondent Nos.1, 3 and 4.

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CORAM: BHARATI DANGRE, J.
DATED : 28th FEBRUARY, 2024

P.C:-

1. Partnership Deed dated 29/06/2010, vide clause 24,
contemplate as under :-

“24. All disputes, difference and questions in connection with partnership firm or in respect of business of the firm or in the matter of the policy etc. arising between the partners or between any one of them or their legal heirs/representatives and whether during or after partnership, shall be referred to Arbitrator/Arbitrators as per Arbitration and Conciliation Act, 1996 or any subsequent modifications thereof. The decision of the Arbitrator/Arbitrators shall be final and binding on all the partners”.

Since the disputes have arisen between the Petitioner, one of the partners in M/s N.N.Enterprises and a party to the Partnership Deed, arbitration has been invoked on

02/03/2022, by requesting the Respondents to refer the dispute for arbitration.

2. Upon the Respondents being served, Respondent No.2 is represented by the learned counsel Ms.Pranjali Bhandari, whereas Respondent Nos.1, 3 and 4 are represented by the learned counsel Mr.Sanjay Koban. They do not dispute the existence of the arbitration clause in the Partnership Deed, but the learned counsel would submit that some of the partners in the original Partnership Deed have retired and are substituted by the new partners.

3. In my considered opinion, this would not pose any difficulty as clause No.24 in a Partnership Deed is widely worded to cover all the disputes, difference and questions in connection with partnership firm or in respect of business of the firm or in the matter of the policy etc. arising between the partners or between any one of them or their legal heirs/representatives and whether during or after partnership, to be referred to arbitration.

4. If the Petitioner desires a wholesome relief before the Arbitrator for her claim, she shall take care that all the partners, erstwhile as well as existing/substituted shall be taken to arbitration.

5. In the wake of the above, since the arbitration clause as well as its invocation by the Petitioner is not in dispute, I deem it appropriate to refer the dispute to the sole Arbitrator. By consent, it is agreed that the arbitration shall be conducted in Pune and, therefore, the Arbitrator to be appointed, shall also be from Pune.

6. In the wake of the above, Justice S. R. Sathe (Retired Judge of Bombay High Court) is appointed as a Sole Arbitrator to decide the disputes and differences between the parties under the document referred to above.

The Arbitrator, within a period of 15 days before entering the arbitration reference, shall forward a statement of disclosure as per the requirement of Section 11(8) read with Section 12(1) of the Arbitration and Conciliation Act, 1996, to the Prothonotary & Senior Master of this Court, to be placed on record of this application

The Arbitrator, after entering the reference, shall fix the date of hearing and issue further directions, as are necessary.

The Sole Arbitrator shall be entitled to the fees prescribed under the Bombay High Court (Fee Payable to Arbitrators) Rules, 2018 and the arbitral costs and fees of the Arbitrator shall be borne by the parties in equal portion and shall be subject to the final Award that may be passed by the Tribunal.

Needless to state that all the contentions of both the sides are left open, to be raised by the respective parties before the Arbitral Tribunal, in accordance with law.

7. The Arbitration Petition stands disposed off.

(SMT. BHARATI DANGRE, J.)