

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

ARBITRATION PETITION NO.4 OF 2024

Bharat Mithalal Nagori

... Petitioner

V/s.

Subhash Sitaram Goel & Ors.

... Respondents

WITH

ARBITRATION PETITION NO.5 OF 2024

WITH

ARBITRATION PETITION NO.6 OF 2024

Mr. Vishal Kanade a/w Mr. Pankaj J. Das for the Petitioner in all Petitions.

Mr. Rajesh Gupta for Respondent Nos.1 and 4 in ARP No.4 of 2024, for Respondent Nos.1 and 2 in ARP No.5 of 2024 and ARP No.6 of 2024.

Mr. Siddharth Bane a/w Mr. Harshad Sathe i/by Mr. Saiprasad Wadkar for Respondent No.14-A to 14-C in ARP No.4 of 2024, for Respondent Nos.5-A to 5-C in ARP No.5 of 2024 and for Respondent Nos.6-A to 6-C in ARP No.6 of 2024.

Mr. Ashwin Pimple a/w Mr. R. D. Gorade for Respondent No.5 and 10 in ARP No.4 of 2024 and for Respondent No.5 in ARP No.6 of 2024.

Mr. S. A. Rajeshirke for Respondent Nos.8, 9, 11 and 12 in ARP No.4 of 2024.

CORAM : ARIF S. DOCTOR, J.

DATE : 28TH AUGUST 2024

P.C. :

1. These are the Petitions filed under Section 11 of the Arbitration & Conciliation Act, 1996.

2. After hearing Mr. Rajeshirke, Learned Counsel appearing on behalf of Respondent Nos.8, 9, 11 and 12 in Arbitration Petition No.4 of 2024, it appears that only objection that has been raised is that the present invocation is belated and the arbitration would now be time barred since it is his contention that the Petitioner had in the year 2014 issued a notice of dissolution of Respondent No.15 Firm.

3. Mr. Kanade, Learned Counsel appearing on behalf of the Petitioner clarifies that after this notice was issued, the same had in fact been withdraw. The Petitioner was recognised as a partner, which are evidenced from e-mail sent by the Petitioner to the Respondents. Additionally, he points out that the business of the firm in fact continues to operate post this notice of dissolution. He, in any view of the matter, submit that these are all issues which can be urged before the Tribunal since the Agreement in question is not in dispute nor the fact that the same has arbitration clause. In view of the settled position of the law, I find merits in the submission of Learned Counsel appearing on behalf of the Petitioner.

4. Mr. Rajeshirke, at this stage, submits that his client would have no objection to the appointment of an Arbitrator, subject to however keeping open all the rights and contentions including the issue of limitation and maintainability. He however seeks time to take instructions from his client as to the name of the Arbitrator since he informs the Court that the Respondent is unwell today.

5. Stand over to 2nd September 2024 (HOB).

(ARIF S. DOCTOR, J.)