

Shephali

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

IN ITS COMMERCIAL DIVISION

COMMERCIAL ARBITRATION PETITION NO. 359 OF 2024

WITH

COMMERCIAL ARBITRATION PETITION NO. 358 OF 2024

JM Financial Credit Solutions Limited

...Petitioner

*Versus*

Siddharth Mallya & Anr

...Respondents

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Mr Aagam Doshi, for the Petitioner

Ms Priyanka Kothari, i/b Waquar Ahmad, for the Respondents

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CORAM. ARIF S. DOCTOR, J

DATED. 7th October 2024

PC:-

1. This present Arbitration Petitions are filed under Section 9 of the Arbitration and Conciliation Act 1996 and arises out of two Deeds of Personal Guarantee given by one Vijay Mallya, since deceased. The present Respondents are the heirs of Vijay Mallya. The Deeds of Guarantee contain an arbitration clause.

2. Ms Kothari, Learned Counsel appearing on behalf of the Respondents appeared and fairly submitted that the Respondents were not opposing the appointment of an Arbitrator. However, she submits that the Petitioners have not produced signed copies of Deeds of Guarantee as also that the Petitioners have already proceeded against the principal borrower before the Debt Recovery Tribunal (“DRT”) and thus there would be no claim subsisting against the Respondents. She submitted that if the rights and contentions of her clients are kept open, she does not have any opposition to the appointment of the Arbitrator.

3. Having heard the Learned Counsel and the fact that there is no opposition, by consent, I appoint Mr Justice Akil Kureshi, Former Chief Justice of Rajasthan High Court to act as the Sole Arbitrator to decide the disputes and differences between the parties on the following Terms and Conditions in both Petitions.

#### **TERMS OF APPOINTMENT**

- (a) Appointment of Arbitrator:** Mr Justice Akil Kureshi, Former Chief Justice of Rajasthan High Court, 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**      **Mr Justice Akil Kureshi,  
Former Chief Justice of  
Rajasthan High Court.**

*Address*            617, Raheja Chambers,  
6th Floor, Free Press Journal  
Marg, 213 Nariman Point,  
Mumbai – 400021.

*Mobile*            9408481511

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

(ii) The present Petition under Section 9 of the Arbitration Act will be treated, heard, and disposed of as an application under Section 17 of the Act. All affidavits filed in the Section 9 petition will be treated as affidavits filed in the Section 17 application. Liberty to apply to the learned Sole Arbitrator for leave to file further affidavits.

(iii) The learned Sole Arbitrator is requested to dispose of all interim applications at the earliest.

- (h) **Fees.** Since the appointment of the Sole Arbitrator is by consent of the parties, the arbitral tribunal's fees shall not 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) **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.
- (k) **Venue and seat of arbitration.** Parties agree that the venue and seat of the arbitration will be in Mumbai.

4. Learned Counsel for the Respondents makes a statement that until the disposal of Section 17 Application the Respondents submit to an order in terms of prayer clause (b).

5. Both Petitions are disposed of in these terms. No costs.

(ARIF S. DOCTOR, J)