



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

MISC. CIVIL APPLICATION (ARBITRATION) NO.1066/2023

Purushottam s/o Tulsiram Badwaik and another

...Versus...

Anil s/o Hariram Malewar and another

Office Notes, Office Memoranda of Coram,
appearances, Court's orders or directions
and Registrar's orders

Court's or Judge's orders

Mr. Atul Pande, Advocate for applicants
Mr. N.B. Kalwaghe, Advocate for respondents

CORAM : BHARAT P. DESHPANDE, J.

DATE : 15/03/2024

1. Heard learned counsel for the parties.
2. Though initially the respondents resisted about appointment of particular Arbitrator suggested by the applicants, now it is submitted with consent of the parties that Hon'ble Shri Justice A.P. Deshpande, Former Judge of this Court, could be appointed as Arbitrator to resolve the dispute.
3. The agreement between the parties clearly shows that in case of any dispute, the same shall be resolved by appointment of Arbitrator. Even the District Judge, by his order, on an application filed by the respondents under Section 9 of the Arbitration and Conciliation Act, 1996 had appointed the Arbitrator to resolve the dispute. However, only

that portion of the order of appointment of Arbitrator was quashed and set aside by this Court in Writ Petition No.1210/2021 vide order dated 07/04/2022. Thereafter, the applicants by notice, called upon the respondents to agree for the appointment of Arbitrator. The said notice was replied by the respondents vide reply dated 06/03/2023.

4. Since now the parties agreed to appoint Hon'ble Shri Justice A.P. Deshpande, Former Judge of this Court, as Arbitrator, the civil application could be disposed of. Accordingly, Hon'ble Shri Justice A.P. Deshpande, Former Judge of this Court, is appointed as sole Arbitrator on mutual consent of the parties.

5. Learned counsel for the applicants shall communicate copy of this order to the learned Sole Arbitrator within a period of one week from today.

6. The learned Sole Arbitrator is requested to forward his Statement of Disclosure under Section 11 (8) read with Section 12 (1) of the Arbitration and Conciliation Act, 1996 to the learned counsel for applicants so as to enable him to file the same in the Registry of this Court. The Registry of this Court shall retain the said statement on the file of this application and copy of the same shall be furnished to the learned counsel for the applicants and learned counsel for the respondents.

7. The parties shall appear before the learned Sole Arbitrator on such date and at such place as he nominates to obtain appropriate directions with regard to fixing a schedule for completing pleadings etc. The Arbitral Tribunal shall give all further directions with reference to the arbitration and also as to how it is to proceed.

8. Contact and communication particulars shall be provided by both sides to the learned Sole Arbitrator within a period of one week from today. This information shall include a valid and functional email address as well as mobile numbers of the respective Advocates.

9. The parties have agreed that the Sole Arbitrator shall charge his fees as per the 4th Schedule of the Arbitration and Conciliation Act, 1996 read with the Bombay High Court (Fee payable to Arbitrators) Rules, 2018. The parties have further agreed that all the arbitral costs and the fees of the Arbitrator will be borne by the applicants and the respondents equally and will be subject to the final Award that may be passed by the Tribunal.

10. The parties immediately shall consent to a further extension of six months to complete the arbitration, if the learned Sole Arbitrator finds it necessary.

11. The parties have agreed that the seat of the arbitration will be at Nagpur. However, the venue of the arbitration shall be decided by the Sole Arbitrator taking into

consideration convenience of the parties as well as his convenience.

12. In view of above, the Misc. Civil Application is allowed and disposed of accordingly.

13. Parties to act upon authenticated copy of this order.

(BHARAT P. DESHPANDE, J.)

Wadkar