
IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

ARBITRATION PETITION NO.198 OF 2024

Ochre & Black Pvt. Ltd.

...Applicant

Versus

IV Enterprises & Ors.

...Respondents

**Ms Devakinandan R. Singh i/b. Mr. Nikhil Rungta, Advocate for
Petitioner.**

CORAM: SOMASEKHAR SUNDARESAN, J.

DATE : JANUARY 06, 2025

PC :

1. This is an Application for appointment of an arbitrator under Section 11 of the Arbitration and Conciliation Act, 1996 (***"the Act"***) to refer the disputes and differences between the parties relating to a Franchise Agreement dated April 20, 2016 that had been executed between the House of Anita Dongre Ltd. and the Respondent herein.

2. It is stated by the Learned Counsel for the Applicant that the business undertaking pertaining to the Franchise Agreement had been acquired by the Applicant from the House of Anita Dongre Ltd. by a business transfer agreement dated April 1, 2019, thereby stepping into the shoes of the franchiser.

3. It is seen from the record that arbitration had been invoked on October 7, 2023, suggesting the name of an advocate to act as the sole arbitrator.

4. It is seen from the record that the Applicant had requested the Respondents to provide concurrence for the appointment of the said advocate as an arbitrator. In response, by an Advocate's letter November 10, 2023, the Respondent has not denied the existence of an arbitration agreement, but has characterized the invocation notice as a case of unilateral appointment of arbitrator, asserting that unilateral appointments are *per se* illegal.

5. Although it is evident from the record that there is no unilateral appointment by the Applicant who had only sought the concurrence of the Respondent for the appointment of an arbitrator, only to hear the Respondent (since this matter is coming up for the very first time), stand over to ***January 13, 2025*** under the same caption.

6. It is made clear that since there does not appear to be any dispute about the arbitration agreement being in existence, the Court is inclined to pass appropriate final orders on the next date.

7. Advocates for the Applicant are given liberty to serve a copy of this order on the Advocates for the Respondents, drawing their

attention to the fact that the matter would be taken up for final disposal on the next date.

8. All actions required to be taken pursuant to this order shall be taken upon receipt of a downloaded copy as available on this Court's website.

[SOMASEKHAR SUNDARESAN, J.]