



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

3 ARBITRATION APPLICATION NO. 57 OF 2025

**AFTAB SHAIKH AKHLAKH AHMED SHAIKH
VERSUS
M/S.NEW PATEL DEVELOPERS
THROUGH ITS PROPRIETOR PATEL ABDUL WAJID ABDUL
SAMI PATEL**

...
Advocate for Applicant : Mr.Abid R.Shaikh h/f. Mr.Shaikh
Ashraf Patel
Advocate for Respondent : Mr.T.Y.Sayed h/f. Mr.G.R.Syed.
...

**CORAM : ARUN R. PEDNEKER, J.
DATE : 30.03.2026**

P.C. :

- 1] Heard the learned counsel for the parties.
- 2] The learned counsel for the applicant submits that there is Development Agreement dated 07.02.2020 with the respondent and that clause 'J' of the said agreement provides that in the event of any dispute arising between the parties, the same shall be referred to arbitration.
- 3] He further submits that the dispute has arisen between the parties and as such the applicant has issued

notice to the respondent for appointment of Arbitrator. However, the respondent did not respond to the same. Hence, the present application has been filed under Section 11 of the Arbitration and Conciliation Act for appointment of an Arbitrator.

4] The learned counsel for the respondent has appeared and has filed response before this Court, which is taken on record. He further submits that the development agreement is cancelled by the applicant himself and as such the arbitration clause does not survive.

5] Clause 'J' of the development agreement dated 07.02.2020 is as under :

J. ARBITRATION & GOVERNING LAW

1. Any dispute/s difference/s or question/s which may arise at any time hereafter between the franchisee and the Grantor touching the true construction of this agreement or the rights and liabilities of the parties hereto, the parties hereby with free will agree that all the disputes shall be referred to the Arbitrator to be mutually appointed by the parties, subject to the provisions of the Arbitration and Conciliation Act, 1996 or any statutory modifications or re-enactment thereof for the time being in force.

2. The venue of such Arbitration shall be at Aurangabad only and Court of law at Aurangabad shall have exclusive jurisdiction and no other Court shall have jurisdiction and to deal with the arbitration proceedings and the awards in accordance with law.

6] Considering the same, this Court deems it appropriate to exercise powers under Section 11 (6) of the Arbitration and Conciliation Act for appointment of an Arbitrator. The issue of continuance of Arbitration clause after recession of the main contract, can be agitated before the Arbitrator.

7] The parties are *ad idem* and have agreed to appoint Justice Mr.S.G.Mehare [Retd.] for Arbitration of the disputes between the parties. Accordingly, the arbitration application is disposed of with following order :

a] Appointment of Arbitrator :-

Justice Mr.S.G.Mehare [Retd.] is appointed to act as sole arbitrator to adjudicate upon the disputes 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 applicant within one week from the date this order is uploaded.

(ii) In addition, within one week of this order being

uploaded, the Registry will forward an ordinary copy of this order to the learned Sole Arbitrator at the following post and email addresses :

Arbitrator : Justice Mr. S.G.Mehare [Retd.]
Address : 'ATHANG', Plot No.28,
Sant Krupa Co-operative Society,
Near Ambika Nagar, Malkapur,
Malkapur-Akola Road, Akola
Taluka & District Akola-444 004.
Phone No. : 9422163542
E-mail : sanjaymehare3@gmail.com

c] Disclosure :

The learned Sole Arbitrator is requested to forward the necessary statement of disclosure under Section 11 (8) read with Section 12 (1) of the Arbitration Act to the Registrar of this Court, referencing this arbitration application, as soon as possible, and in any case sufficiently before entering upon the reference to arbitration. That statement will be retained by the Registrar on the file of this application. Copies will be given to both sides.

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 and the parties to obtain

appropriate directions from the arbitrator 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 within one week of this order being uploaded. The information is to include a valid and functional email address.

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.

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

- h] Fees :
As per the Arbitration and Conciliation Act.
- i] Sharing of costs and fees :
As per the Arbitration and Conciliation Act.
- j] Venue and seat of arbitration :

Seat of the arbitration would be governed by the provisions of the agreement executed between the parties.

The applicant is permitted to raise all defences before the Arbitrator. All the contentions of the parties are kept open.

[ARUN R. PEDNEKER]
JUDGE

DDC