

IN THE HIGH COURT OF JUDICATURE FOR _____

_____ AT _____

S.B. CIVIL ARBITRATION APPLICATION NO. _____/2021

ABC

...APPLICANT

Versus

1. CD

2. EF

....RESPONDENT

**APPLICATION UNDER SECTION 11 OF ARBITRATION AND
CONCILIATION ACT, 1996 FOR DIRECTIONS OF THE
HON'BLE COURT FOR APPOINTMENT OF A SOLE
ARBITRATOR FOR RESOLUTION OF DISPUTES BETWEEN
THE PARTIES.**

TO,

THE HON'BLE CHIEF JUSTICE OF _____ AND HIS
LORDSHIPS OTHER COMPANION JUSTICES OF THE HIGH
COURT OF JUDICATURE FOR _____ AT
_____.

MAY IT PLEASE YOUR LORDSHIPS:-

The Humble Applicant submits the instant application before the Hon'ble Court as under:-

1. That (explain the purpose on which applicant and respondent/s have entered into a contract). Copy of the Agreement/Contract executed between the applicant and respondent-___ is herewith enclosed as Annexure-1.
2. That (state the facts due to which dispute has arisen between the parties to the contract)
3. That clause ____ of the agreement executed between _____ states to refer any dispute between the parties to Arbitration. Clause 62(a)of the dealership agreement states as under:

WRITE DOWN THE ARBITRATION CLAUSE

4. That as per clause __ of the agreement any dispute arose between the parties to the dealership agreement has to be referred to sole arbitration to some officer of the respondent. But the Arbitrator is an employee of the respondent and have direct relation with the _____ who is one of the party in the present dispute matter thus it give rise to the justifiable doubts as to the independence or impartiality of the arbitrator in accordance to the grounds mentioned in the Fifth Schedule of the Arbitration and Conciliation Act, 1996.

5. That the appointment of any officer nominated by RESPONDENT as the Arbitrator in the present dispute matter is a clear ground to challenge the appointment of the arbitrator. As per section 12(3)(a) of the Arbitration and Conciliation Act, 1996 which states that an arbitrator may be challenged only if circumstances exist that give rise to justifiable doubts as to his independence or impartiality. In the present dispute matter arbitrator as per the agreement is an employee of respondent and has direct relation with one of the parties to the dispute which makes a clear ground to challenge the arbitrator to be appointed as per section 12(3)(a) of the Arbitration and Conciliation Act, 1996.
6. That the applicant sent a notice for invoking Arbitration in the matter of dispute between the respondent through his advocate on 19th April 2021 but till date no reply to the aforesaid notice has been received from the respondents' side. Copy of the notice sent for invoking Arbitration is herewith enclosed as .
7. That in the aforesaid notice sent for invoking arbitration the applicant through his advocate after becoming aware of the circumstances that the arbitration will be referred to any officer of respondent, the applicant has clearly stated that the arbitration cannot be referred to any officer of respondent as it raises the justifiable doubts as to the

independence or impartiality of the arbitrator as per the the grounds mentioned in the Fifth Schedule of the Arbitration and Conciliation Act,1996 and challenged the appointment of such Arbitrator as per section 12(3)(a) Arbitration and Conciliation Act,1996 and challenged the appointment of such Arbitrator in accordance to the procedure of challenge as per section 13 of the Arbitration and Conciliation Act,1996.

8. That the respondents even after challenging the appointment of such Arbitrator as per the rules and procedures laid down under the Arbitration and Conciliation Act,1996 did not even bother to take a look to the assertions made in the aforesaid notice and neither accepted/decided any point laid down in the aforesaid notice nor they denied any of the points made in the aforesaid notice.
9. That in view of the aforesaid facts and circumstances, it is clear that there exists the dispute *interse* the applicant and the respondent and further it is pertinent to note that the respondents have failed to appoint any learned person who is neutral and who is not related to any party in the present dispute matter, now it is imperative that dispute between the applicant and respondent is to be settled through the Sole Arbitrator appointed by this Hon'ble

Court in view of the powers conferred under section 11(6) of the Arbitration and Conciliation Act, 1996.

P R A Y E R

In view of the aforesaid facts and circumstances it is humbly and most respectfully prayed that this Hon'ble Court may be pleased to:-

- i. Appoint a Sole Arbitrator to decide and adjudicate upon the dispute between the applicant and respondents arising out of _____.
- ii. Direct that the Sole Arbitrator so appointed with seat at _____ shall be entitled to receive the fee and other expenses in terms of statutory provisions in this regard.
- iii. Any other order/direction which this Hon'ble Court may deem just and expedient in the facts and circumstances of the present case.

AND FOR THIS ACT OF KINDNESS AND JUSTICE, THE APPLICANT HEREIN, AS IN DUTY BOUND SHALL EVER PRAY.

HUMBLE PETITIONER

THROUGH COUNSEL

VERIFICATION

I, _____ do hereby certify that the contents of the Para 1 to ___ of the application are true and correct as per my knowledge as well as on the basis of the legal advice rendered by my counsel. Also, the prayer so sought therein is also correct and legally valid.

DEPONENT