

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

MISCELLANEOUS CIVIL APPLICATION NO.1139/2013

M/s Arshi Ventures

..Versus..

M/s Ion Exchange (India) Ltd.

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

Court's or Judge's orders

CORAM : Z.A. HAQ, J.

DATE : 26.6.2015

Heard Shri Nitin Vyawahare, the learned advocate for the applicant and Shri P.V. Bansod, the learned advocate for the non-applicant.

The applicant, by this application, seeks appointment of Arbitrator to resolve the dispute between the parties as per the arbitration clause incorporated in the agreement between the parties. The copy of the agreement placed on the record shows that Clause 10, which is the relevant clause, is not transcribed. The learned advocates

for the respective parties submit that even the original agreement is to the same effect. Be that as it may, both the learned advocates for the respective parties, relying on the first sentence appearing on page 12 of the paper book and relying on the Clause 15 of the agreement submit that the arbitration proceedings are required to be taken at Mumbai. Shri Vyawahare, the learned advocate however submits that the arbitration proceedings are required to be taken up at Mumbai but part of cause of action has arisen at Nagpur and, therefore, this Court can entertain and decide the application. Shri Bansod, the learned advocate has relied on the judgments given by the Hon'ble Supreme Court in the case of (1) *M/s. Bhandari Udyog Limited V/s. Industrial Facilitation Council and another* reported in **2015CJ (SC) 129** and (2) *Swastik Gases P. Ltd. V/s. Indian Oil Corporation Ltd.* reported in **2013 CJ (SC) 1066** and has submitted that even the application under Section 11 of the Arbitration and Conciliation Act, 1996 will have to be filed at Mumbai.

Considering the terms of the agreement, I am of the view that the application filed by the applicant is not maintainable before this Court at Nagpur. The application is dismissed with liberty to the applicant to approach appropriate Court, if so advised.

JUDGE

Tambaskar.