

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, AT NAGPUR.**

CIVIL REVISION APPLICATION NO.09 OF 2018

(M/s. Indo Unique Flame Ltd. ..vs.. M/s. N.N. Global Mercantile Pvt.Ltd. and others)

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

Court's or Judge's orders

Shri S.P. Bhandarkar, Counsel for the applicant,
Shri Shyam Dewani, Counsel for respondent 1.

CORAM : ROHIT B. DEO, J.

DATED : 09-07-2020

Hearing was conducted through video conferencing and the learned Counsel agreed that the audio and visual quality was proper.

2. Shri Shyam Deswani, learned Counsel for respondent 1 raises a preliminary objection to the maintainability of the civil revision application *inter alia* relying on the provisions of Section 8 of the Commercial Courts Act, 2015.

3. Apart from the said objection, the other question would be whether the order impugned is rendered in exercise of jurisdiction under Order VII Rule 11 of the Civil Procedure Code or is essentially an order which decides an application under Section 8 of the Arbitration and Conciliation Act, 1996. If it is held that the order impugned decides an application under Order VII Rule 11 of the Civil Procedure Code for rejection of plaint, a

revision would lie since if the revision is allowed and the plaint is rejected, the proceedings shall be finally terminated. However, if the order impugned is in essence an order disposing of a prayer to refer the dispute to arbitration and stay the proceedings of the civil suit, it would be arguable whether such order is revisable since the proceedings in that case may not be construed as finally terminated.

4. In order to avoid technical issues qua the maintainability of the revision, Shri S.P. Bhandarkar, learned Counsel seeks leave to withdraw the civil revision application with liberty to prefer petition under Article 227 of the Constitution of India. Although Shri Shyam Dewani, learned Counsel is objecting, I am inclined to permit the petitioner to withdraw the civil revision application with liberty to file an appropriate application/petition under Article 226 or 227 of the Constitution of India.

5. With such liberty, the civil revision application is disposed of as withdrawn.

JUDGE

adgokar