

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

1025 APPEAL FROM ORDER NO.107 OF 2014

Kirti Agrotech Limited,
A registered company having its registered office
at 79-C, Market Yard, Latur, Dist. Latur
Through its Authorized Person
Venktesh s/o. Uttamrao Kulkarni,
Age: 34 years, Occu : Service,
R/o. Plot No.C-3, Vikram Nagar,
Latur, District Latur. **.. APPELLANT**

VERSUS

Gujrat Ambuja Exports Limited,
A registered company having its registered office
at Ambuja Tower, Opp. To Memnagar, Fire Station,
Navjeevan, Navrangpura, Ahemadabad-380 014.
Through its Managing Director and Authorized Person
Shri Manish s/o. Vijaykumar Gupta,
Age : 48 years, Occu : Business,
R/o. Ambuja Tower, Opp. To Memnagar,
Fire Station, Navjeevan, Navrangpura,
Ahemadabad-380 014. **.. RESPONDENT**

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Mr.R.F.Totala h/f. Mr.R.A.Karwa, Advocate for the
appellant
Mrs.Anjali Bajpai-Dube, Advocate for respondent

...

CORAM : S.G.DIGE, J.
DATE : 07.09.2022

PER COURT :

1] Heard the learned counsel for the appellant and the learned counsel for the respondent.

2] The learned counsel for the appellant submits that if this Court set aside the order passed by the Civil Judge Senior Division, Latur dated 30th June, 2014 below Exh.10, the appellant would withdraw the said suit and file the application before the Arbitrator and take appropriate steps to appoint Arbitrator.

3] The learned counsel for the respondent submits that appropriate order be passed.

4] I have heard both learned counsel. Both learned counsel agreed that there was arbitration clause in the agreement between the appellant and the respondent. Two applications were filed by the respondent before the learned trial Court; one was in respect of challenging territorial jurisdiction of the trial Court and another is regarding arbitration clause in the agreement executed between the

appellant and the respondent. The learned trial Court has decided the application for territorial jurisdiction and has passed the order to return of plaint, which is under challenge. In my view, both the parties are agreed to refer the matter for arbitration as there is arbitration clause in the agreement, hence, I pass the following order:-

ORDER

i] The impugned order dated 30th June, 2014 passed by the Civil Judge Senior Division, Latur below Exh.10 is hereby quashed and set aside. The appellant is permitted to withdraw the suit and take appropriate steps.

ii] Delay till the date would not be ground for filing arbitration application.

iii] Appeal is disposed of accordingly.

[S.G.DIGE]
JUDGE

DDC