

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
COMMERCIAL ARBITRATION PETITION NO.22 OF 2023

Avontec Automation Private Limited .. Petitioner

Versus

Ravon Engineering India Pvt. Ltd.& .. Respondents
Ors.

...

Mr.Sangramsingh Bhonsle with Mr.Siddharth A. Mehta,
Ms.Aarti Bhonsle,Ms.Arti Gaikwad, Ms.Shrushti Thorat and
Ms.Harshada Shrikhande for the Petitioner.

Mr.Nausher Kohli with Hormuz Mehta and Kabir Saund i/b J.
Sagar Associates for the Respondent No.1.

Mr.Adil Parsurampururia (through VC) i/b J.Sagar Associates
for the Respondent Nos.2 and 3.

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CORAM: BHARATI DANGRE, J.

DATED : 19th APRIL, 2024

P.C:-

1. The precise objection on behalf of the learned counsel representing Respondent No.1 as well as the learned counsel for Respondent Nos.2 and 3 is, that the Applicant who has approached this Court, by filing an Application under Section 11(6), seeking appointment of the Sole Arbitrator in terms of Article 17 of the Business Transfer Agreement dated 05/02/2019 and for reference of the disputes that are alleged to have arisen, between the parties, is without invocation of the relevant clause of the agreement.

2. My attention is invited to the notice dated 20/08/2020 by Respondent Nos.1, 2 and 3, which contain a reference to Clause 15 of the Shareholders Agreement dated 05/02/2019 entered into between Ms.Ravinder Kaur Savadi and Mr.Varun Savadi (referred to as "Savadi Shareholders") and Ms.Uma Nidmarty and Mr.Ameet Nidmarty (referred to as, "Nidmarty Shareholders") in respect of Avontec Automation Private Limited and to Article 17 of the Business Transfer Agreement dated 05/02/2019, entered into between Avontec Automation Private Limited and Ravon Engineering India Private Limited.

The said notice categorically referred to the Shareholders Agreement, and in particular, clauses 14.1 and 14.2 thereof to be read with Article 17 of the Business Transfer Agreement.

3. Paragraphs 5 to 7 of the said notice has categorically set out as under :-

"5. Accordingly, any dispute or difference whatsoever arising between the parties out of or relating to the SHA and BTA are to be settled by arbitration in accordance with Arbitration and Conciliation Act, 1996. The venue and seat of arbitration shall be in Pune. All arbitration proceedings shall be carried out in English. Under the SHA the arbitrator is required to be a Retired High Court Judge, jointly appointed by the parties.

6. Accordingly, our client proposes that Hon'ble Justice Mr.Shiavax Vazifdar (Retd.), Chief Justice of Punjab and Haryana High Court as a sole arbitrator. We request you to indicate within 7 (seven) days whether the proposal is acceptable to you.

7. Please note that our client reserves its rights to provide details and further submit additional claims under the SHA and BTA respectively during the course of the arbitral proceedings."

4. This received response at the end of the Applicant, where it is stated that neither of the material disputes are set out in the notice invoking arbitration and, therefore, it was assumed that the clients had no claims, but instead, it was indicated that Avontec, Uma Nidmarty and Mr.Ameet Nidmarty, (referred to as, 'Claimants') set out their claims against Ms.Ravinder Kaur Savadi, Mr.Varun Savadi, Mr.Vinayak Savadi and Rayon Engineering India Private Limited, which included the following :-

- (a) Return of all shares held by Ravinder and Varun Savadi in Avontec;
- (b) Return of all property/information of Avontec in possession of the Claimants;
- (c) Resignation of Ravinder Kaur Savadi as a Director of Avontec, coupled with a claim for damages for the loss caused by the Respondents to the Claimants.

The response also stated that the client reserved the right to make additional claims and submit additional information.

Upon a further notice addressed by Respondent Nos.1, 2 and 3 on 22/09/2020, substituting the name of the nominated Arbitrator, the dispute could not be referred for arbitration.

5. I find sufficient substance in the submissions advanced by the learned counsel on behalf of Respondent No1 and by the learned counsel on behalf of Respondent Nos.2 and 3 to the effect that, there is no invocation of arbitration by the Applicant and if at all the disputes have to be referred to Arbitrator, they shall be jointly made over, arising out of the

Shareholders Agreement as well as the Business Transfer Agreement and an half-hearted reference, only by relying upon Article 17 of the Business Transfer Agreement, disputes cannot be resolved.

6. Considering the preliminary objection that the Applicant has not invoked arbitration independently, the learned counsel Mr.Sangramsingh Bhonsle, on being confronted, on instructions, seeks liberty to withdraw the present Application and file fresh proceedings, only after invoking the relevant Article in the Business Transfer Agreement or as the client may be advised accordingly.

Permission granted. The Application stands disposed off, as withdrawn, by reserving the liberty as prayed for.

(SMT. BHARATI DANGRE, J.)