



Gaikwad RD

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
ARBITRATION PETITION NO.153 OF 2021

India Kawasaki Motors Pvt. Ltd.

...Petitioner

Versus

Vasisht Marketing Pvt. Ltd.

...Respondent

Mr. Sanat Ragde, i/b. Legasis Partners, for the Petitioner.

**Mr. H. H. Holambe-Patil, with Ms. Varsha Holambe-Patil-Kendre,
for the Respondent.**

CORAM Dr. Neela Gokhale, J.

DATED: 8th January 2024

PC:-

1. The petition seeks appointment of an arbitrator to adjudicate disputes that have arisen between the parties out of the dealership agreement dated 17th June 2020. The Petitioner is a company incorporated under the Companies Act and engaged in the business of manufacture, assembly and sale of of motorcycle, its spare parts and the allied products. The Respondent is a company incorporated under the Companies Act and is engaged in the business of distributorship/dealership of manufactured products specifically of motorcycles.

2. Clause 30 of the dealership agreement contains an arbitration clause, which reads as thus:

“ARBITRATION & JURISDICTION

30.1 In the event of any difference/disagreement or dispute(s) between the Parties, arising in connection with this Agreement or its execution, the Parties shall attempt to settle the same in an amicable manner and if no settlement is reached within thirty (30) days of receiving a written notice of such difference/dispute by either Party to the other Party, the same shall be referred to arbitration as per the Arbitration and Conciliation Act, 1996, as amended from time to time. Either Party shall be entitled to refer the dispute for resolution to a sole arbitrator who shall be appointed by the mutual consent of the Parties within thirty (30) days of initiation of the arbitration proceedings, failing which either Party may approach the concerned court for appointment of the arbitrator. The language of the arbitration shall be English. The place of arbitration shall be Pune, Maharashtra. The Parties shall share equally the costs of any arbitration, irrespective of the outcome the arbitration award shall be final and binding on the Parties.

30.2 For all purposes in relation to this Agreement, the courts at Pune alone shall have exclusive jurisdiction. No other Court shall have jurisdiction to deal with any dispute or any matter between the Parties arising out of this Agreement.”

3. Mr. Ragde, learned counsel for the Petitioner says that the notice dated 27th May 2021 was issued by the Petitioner through its lawyer calling upon the Respondent to make the payment outstanding to the tune of Rs.22,16,960/- along with interest thereon. By reply dated 3rd June 2021, the Respondent denied the contentions of the Petitioner stated in its notice and in fact raised a counter claim against the Petitioner. There is some more correspondence between the parties, but the dispute still could not be amicably settled. Finally, by notice dated 20th August 2021, the Petitioner invoked the arbitration clause No.30 in the dealership agreement and called upon the Respondent to appoint an arbitrator. There is no reply to this notice. Mr. Holambe-Patil, learned counsel appears for the Respondent and states, on instructions, that he has no objection to appointment of an arbitrator to resolve the disputes between the parties.

4. I have heard both the parties. On instructions, both the Counsels are agreeable to refer the dispute to a Sole Arbitrator nominated by this Court. As there is consent between the parties for appointment of a Sole Arbitrator, the Petition is disposed of by the following order:

ORDER

1. Shri Yashpal Purohit, Advocate is appointed as a Sole Arbitrator to enter reference and adjudicate the disputes between the parties out of the Dealership Agreement dated 17th June 2020. The seat of the arbitration shall be Pune.
2. The learned Sole Arbitrator shall forward a statement of disclosure as per the requirement of Section 12(1) of

Arbitration and Conciliation Act 1996 to the Prothonotary and Senior Master of this Court to be placed on record of this Petition with a copy forwarded to both the parties.

3. At the first instance the parties shall appear before the learned Arbitrator within a period of ten days from the date of uploading of this order or on such date that may be fixed by the Sole Arbitrator.
4. All contentions of the parties on merits of the disputes are expressly left open.
5. The fees payable to the Arbitral Tribunal shall be in accordance with the Bombay High Court (Fee payable to the Arbitrator) Rules, 2018 which shall be borne by the parties in equal proportion.
6. The Petition is disposed of in the above terms. There will be no order as to costs.
7. Office to forward a copy of this order to the learned Sole Arbitrator on the following address:

**“Mr. Yashpal Purohit, Advocate
4, Yashodamai Apartment, 783/A,
Kamala Nehru Park, Off. Bhandarkar Road,
Deccan Gymkhana, landmark-Shivendu Bungalow,
just casuals lane (Dr. Herekar park lane)**

Mobile No.8308840404

E-mail: yashpalpurohit26@gmail.com”

(Dr. Neela Gokhale, J)