

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
ARBITRATION PETITION NO.170 OF 2024

M/s Rasmi Marketing	...Petitioner
Versus	
M/s Laxmi Drucken Komponenten Pvt. Ltd.	...Respondent

Mr. Sohan Gunjal, *Advocate for Petitioner.*

Mr. Akshay Patil *i/b. Anvil S. Kalekar, Advocate for Respondent.*

CORAM: SOMASEKHAR SUNDARESAN, J.

DATE : JULY 09, 2025

ORDER :

1. This is a Petition filed under Section 11 of the Arbitration and Conciliation Act, 1996 (*"the Act"*) seeking reference of disputes and differences between the parties connected with purported Agreement dated April 1, 2012 (*"Agreement"*), by which the Petitioner had undertaken to conduct liaison work on behalf of the Respondent. The Petitioner was to be paid commission linked to the value of the sale of pumps manufactured by the Respondent, pursuant to public tenders. The Agreement contains an arbitration clause contained in Clause 10 (Found at Page No.18 of the Petition).

2. While it appears from the record that the agreement is in a final draft form, the execution of the same is not apparent by a fixation of

signatures on the face of the agreement. However, Learned Counsel for the Petitioner would point to a letter dated July 3, 2018, received from Advocates for the Respondent, which would point to Respondent having given instructions to its Advocates that the commission would be payable to the Petitioner only when the Respondent receives the payment from the party that acquired the pumps. On the basis of this exchange of correspondence, he would submit that conduct of the parties would show that they acted in accordance with the Agreement and that this would lead to inference of existence of an arbitration agreement, and that the parties must be referred to arbitration.

3. Learned Counsel for the Respondent would raise two contentions, the first being that the agreement is not signed, and second being that the agreement is with an individual who is identified as a Karta of an HUF in the name of the very same individual. He would point out that the Agreement is therefore with the HUF and not with the individual and he would also question the privity of contract with the said party.

4. Learned Counsel for the Respondent would also raise the issue of limitation in pursuing the cause of action. On the face of it, the exchange of legal notices between the parties would point to the agreement having been acted upon and this case would somewhat fall

in a manner similar to how arbitration clauses in invoices are dealt with.

5. Having heard the parties, and having seen the exchange of correspondence, as also another correspondence dated June 20, 2018, by which the Advocates for the Petitioner had called upon the Respondent to make payments, which in turn alluded to working for multiple sister concerns of the Respondent, it would be appropriate to request the Learned Arbitral Tribunal to consider if it can examine the existential question of the arbitration agreement upfront. The sequencing of consideration is of course left to the Learned Arbitral Tribunal. It is left to the Learned Arbitral Tribunal to determine this issue and if necessary, frame it as a preliminary issue in the peculiar facts and circumstances of the case.

6. Consequently, in the peculiar circumstances, this order is being passed *disposing of* the Petition finally.

7. All actions required to be taken pursuant to this order, shall be taken upon receipt of a downloaded copy as available on this Court's website.

[SOMASEKHAR SUNDARESAN, J.]