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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
ORDINARY ORIGINAL CIVIL JURISDICTION  
IN ITS COMMERCIAL DIVISION**

**COMMERCIAL ARBITRATION APPLICATION NO. 210 OF 2025**

M/s. Omkar Films Creations

...Applicant

***Versus***

M/s. NEM (India) Development & Constructions  
Pvt Ltd

...Respondent

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**Mr. Rahul Karnik, i/b Rohit Mahadik, for the Applicant.**

**Mr. Yasmeen Mohd. Sabir a/w Jahnvi Pandey, i/b Link Legal, for Respondent.**

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**CORAM : SOMASEKHAR SUNDARESAN, J.**

**DATE : JUNE 24, 2025**

**ORDER :**

1. This Application has been filed under Section 11 of the Arbitration and Conciliation Act, 1996 (***“the Act”***), seeking appointment of an arbitrator in connection with disputes and differences that are said to have arisen between the parties under a Leave and License agreement dated June 15, 2023. The arbitration agreement is contained in Clause 22 (found at Page 41 of the Petition). In the interest of brevity, the arbitration agreement is not being extracted here. Suffice it to say that this matter falls within the jurisdiction of this Court.

2. It is apparent from the record that the arbitration agreement was invoked by the Applicant on February 12, 2025. There is no reply filed to the said invocation.

3. Learned Counsel for the Respondent raises a few objections. First, he would submit that the agreement is executed indicating that the Applicant is a partnership firm, whereas the pleadings in the Application indicate that the Applicant is now a Proprietorship firm, and this needs reconciliation. The other objection is that the disputes may not relate purely to damages as is being submitted by the Learned Counsel for the Applicant, essentially, it relates to termination of the leave and license agreement and would fall within the domain of the Small Causes Court pursuant to a full Bench judgment of this Court referred in *Central Warehousing Corporation*<sup>1</sup>.

4. These are issues of evidence and arbitrability which fall in the domain of the arbitral tribunal. The scope of jurisdiction of this Court under Section 11 is restricted to examining the existence of arbitration agreement. The Respondent is not foreclosed from taking out an

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<sup>1</sup> *Central Warehousing Corporation, Mumbai vs. Fortpoint Automotive Pvt. Ltd.*  
– 2010 (1) MhLJ 658

appropriate Application under Section 16 to contend that the dispute falls out of the jurisdiction of the arbitral tribunal.

5. The scope of review under Section 11 is explicitly set out in Section 11(6A) of the Act. It is now trite law, with particular regard to the decisions of a seven-judge bench in the *Interplay Judgement*<sup>2</sup> followed by multiple others, including *SBI General*<sup>3</sup> and *Patel*<sup>4</sup> that the Section 11 Court ought not to venture beyond examining the existence of a validly existing arbitration agreement that has been formally executed. Even questions of existential substance is a matter that falls squarely in the domain of the arbitral tribunal, in view of Section 16 of the Act.

6. Being satisfied that an arbitration agreement is validly in existence, and that arbitration has been duly invoked, it is in the fitness of things to refer the disputes and differences between the parties in connection with the aforesaid agreement to arbitration by a Sole Arbitrator.

7. With the aforesaid observations, this Application is finally disposed of in the following terms:-

<sup>2</sup> *In Re: Interplay Between Arbitration Agreement under Arbitration and Conciliation Act, 1996 and Stamp Act, 1899* (2024) 6 SCC 1

<sup>3</sup> *SBI General Insurance Co. Ltd. Vs. Krish Spinning*, 2024 SCC OnLine 1974

<sup>4</sup> *Ajay Madhusudan Patel Vs. Jyotindra S. Patel*, 2024 SCC OnLine, 2597

A) Ms. Ayushi Anandpara, a learned advocate of this Court is hereby appointed as the Sole Arbitrator to adjudicate upon the disputes and differences between the parties arising out of and in connection with the Agreement referred to above;

Office Address:-

C/o Rohaan Cama, Office Nos. 17-18,

1<sup>st</sup> Floor, Islam Building,

Veer Nariman Road,

Fort, Mumbai – 400 001.

Email ID: [ayushi.anandpara@gmail.com](mailto:ayushi.anandpara@gmail.com)

B) A copy of this Order will be communicated to the Learned Sole Arbitrator by the Advocates for the Petitioner/Applicant within a period of one week from the date of upload of this order. The Petition/Application shall provide the contact and communication particulars of the parties to the Arbitral Tribunal along with a copy of this Order;

C) The Learned Sole Arbitrator is requested to forward the statutory Statement of Disclosure under Section 11(8)

read with Section 12(1) of the Act to the parties within a period of two weeks from receipt of a copy of this Order;

D) The parties shall appear before the Learned Sole Arbitrator on such date and at such place as indicated, to obtain appropriate directions with regard to conduct of the arbitration including fixing a schedule for pleadings, examination of witnesses, if any, schedule of hearings etc. At such meeting, the parties shall provide a valid and functional email address along with mobile and landline numbers of the respective Advocates of the parties to the Arbitral Tribunal. Communications to such email addresses shall constitute valid service of correspondence in connection with the arbitration;

E) All arbitral costs and fees of the Arbitral Tribunal shall be borne by the parties equally in the first instance, and shall be subject to any final Award that may be passed by the Tribunal in relation to costs.

8. Needless to say, nothing contained in this order is an

expression of an opinion on merits of the matter or the relative strength of the parties. All issues on merits are expressly kept open to be agitated before the arbitral tribunal appointed hereby.

9. 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.]**