

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

COMMERCIAL ARBITRATION APPLICATION NO.300 OF 2025
WITH
COMMERCIAL ARBITRATION PETITION NO.226 OF 2025

Anup Shyam KarnaniApplicant/Petitioner

Versus

Shammi Kanhiyalal Mamtani and Ors.Respondents

Mr. Rishabh Agarwal *a/w. Mr. Prateek Katewa, Mr. Shailesh Korpe & Ms Nikhita Mathuria i/b. Cygnus Legal, Advocates for Applicant/Petitioner.*

Mr. Yatin Malvankar *i/b. Kapil Hirani, Advocate for Respondents.*

CORAM: SOMASEKHAR SUNDARESAN, J.

DATE : SEPTEMBER 12, 2025

ORAL JUDGEMENT:

1. *Commercial Arbitration Application No.300 Of 2025* is an Application under Section 11 of the Arbitration and Conciliation Act, 1996 (*"the Act"*) seeking reference of disputes and differences between the parties, in connection with the governance of a Limited Liability Partnership (*"LLP"*) of which the other parties are Partners, to arbitration.

2. The Limited Liability Partnership Agreement is dated April 26, 2016 and was executed in Mumbai. However, shortly thereafter, the registered office of the LLP shifted to Nagpur. All the assets of the LLP, which form subject matter of what would need to be dealt with while looking at the governance of the LLP or for rendering accounts of the LLP, are located in Nagpur. Therefore, Learned Counsel for the Respondents has instructions to raise a territorial objection, stating that this application ought to have been filed before the Nagpur Bench of this Court and not before the Principal Bench in Mumbai.

3. Having heard Learned Counsel for the parties at length, it is apparent that the registered office of the LLP is in Nagpur, and disputes over its governance would have a direct nexus with the territorial jurisdiction of the Nagpur Bench. So also, the cause of action, which is essentially that bundle of facts which need to be proved or disproved in order to grant or deny relief, would entirely be located in Nagpur. Even at the time of invocation, namely, April 12, 2024, the aforesaid fact pattern is writ large on the face of the record i.e. that all factors relate to the territory in Nagpur.

4. In these circumstances, it is apparent that although the seat and venue in the arbitration agreement is silent, the bundle of facts, the proving or disproving of which would lead to grant or denial of relief is

entirely based in Nagpur, and therefore, it would be the Nagpur Bench that would have territorial jurisdiction in the matter.

5. Learned Counsel for the Applicant submits that one of the Respondents, namely, Respondent No.3 who is a Partner in the firm, is based in Mumbai and so is the Petitioner, and therefore, the Partners are evenly divided between Mumbai and Nagpur. He would also submit that the LLP agreement having been executed in Mumbai cannot be ignored. Likewise, since the invocation notice is issued from Mumbai, he would submit that this Court would have jurisdiction. He would seek to rely on a judgment by a Learned Single Judge of the Delhi High Court in *Prashant Kumar Parashar*¹ which invokes the ruling in *A.B.C.*² to urge this Court to proceed to appoint the Arbitral Tribunal on the premise that the analysis in *Prashant Kumar Parashar* would commend itself for acceptance.

6. In that case, the agreement was silent about the seat and venue and the matter was brought before the Delhi High Court on the premise that one of the parties lived in Delhi. The Learned Single Judge has examined the matter and taken a view that ultimately matters of merits would have to be dealt with by the arbitrator by taking aid of Section 16 of the Act, but has ruled that Section 11 application in the case of

¹ *Prashant Kumar Parashar Vs. Sumit Singla & Anr.* – 2025 SCC Online Del 1745

² *A.B.C. Laminart (P) Ltd. Vs. A.P. Agencies* – (1989) 2 SCC 163.

absence of consent about the seat and venue of arbitration must be guided by the principles obtaining from Section 16 to 20 of the Code of Civil Procedure, 1908 (“**CPC**”). The Learned Single Judge ruled that two factors are relevant, namely, where the Respondent actually or voluntarily resides or carries on the business and where the cause of action only or in part arises.

7. In the facts of the instant case, the cause of action only arises in Nagpur, so also Respondent No.3 is volunteering that the most appropriate and convenient forum being Nagpur, he has instructions to proceed to arbitration in Nagpur. That apart, under Section 120 of the CPC it would be the Letters Patent of the Bombay High Court that would apply and not the provisions of CPC alluded to by the Delhi High Court. Be that as it may, the observation of the Learned Single Judge in Paragraph 12 is itself a pointer and is extracted below :-

“12. A catena of Supreme Court decisions have clarified that while determining territorial jurisdiction of a Court, what is decisive is the accrual of cause of action. In other words, cause of action is a bundle of facts which create rights and obligations and gives rise to the right to sue to a party. Moreover, cause of action is made up of material and integral facts. This implies that not every insignificant or inconsequential fact becomes a part of cause of action. In fact, for a fact to be considered material enough to lead to the conclusion as to accrual of cause of action, it must be proved that the said fact has a nexus with lis between the parties and that it is integral to the dispute at hand. Reference may be

made to the decision of the Apex Court in Alchemist Ltd. v. State Bank of Sikkim, (2007) 11 SCC 335. Relevant part of it is reproduced herein:

“25. The learned counsel for the respondents referred to several decisions of this Court and submitted that whether a particular fact constitutes a cause of action or not must be decided on the basis of the facts and circumstances of each case. In our judgment, the test is whether a particular fact(s) is (are) of substance and can be said to be material, integral or essential part of the lis between the parties. If it is, it forms a part of cause of action. If it is not, it does not form a part of cause of action. It is also well settled that in determining the question, the substance of the matter and not the form thereof has to be considered.”

(Emphasis supplied)

8. Even a plain reading of foregoing would show that every insignificant or inconsequential fact cannot be part of the bundle of facts, the proving of which would lead to an outcome in the proceedings. Since all the properties are situated in Nagpur and the dispute is essentially about governance of the LLP (Respondent No.4) which has its registered office in Nagpur, it is only appropriate to hold that the cause of action is entirely located at Nagpur.

9. In these circumstances, it would be inappropriate for this Court to exercise jurisdiction when the designated jurisdiction would be the Nagpur Bench of this Court.

10. In these circumstances, these proceedings are not being entertained for want of jurisdiction. The Applicant is at liberty to approach the Nagpur Bench for the same relief of appointing an arbitrator.

11. Both the proceedings are hereby *finally disposed of*.

12. 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.

13. 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.]