

IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD

THE HON'BLE SRI JUSTICE K. LAKSHMAN
AND
THE HON'BLE SRI JUSTICE B.R.MADHUSUDHAN RAO

Civil Revision Petition No.2660 of 2017

Date: 23.07.2026

Between:

Rajesh Agarwal. ...Revision Petitioner

And

MSVG Prasad. ...Respondent

ORDER: *(Per Hon'ble Sri Justice K.Lakshman)*

Heard Sri Anand, learned counsel representing Sri
S.Balchand, learned counsel for the revision petitioner.

2. Despite service of notice, there is no representation on
behalf of the respondent.

3. This Revision Petition is filed under Article 227 of
Constitution of India challenging the order dated 24.01.2017 in
I.A.No.138 of 2016 in O.S.No.2540 of 2015 passed by the
learned X Junior Civil Judge, City Civil Court, Hyderabad.

4. M/s.Ennar Marketing, a proprietary concern, represented by the petitioner herein, entered into a Memorandum of Understanding dated 15.12.2010 on specific terms and conditions mentioned therein. Both of them are dealers in Servo lubricants. The respondent herein incurred losses in the said business and requested M/s.Ennar Marketing to invest in the said business. Accordingly, the petitioner herein invested certain amount in the said business. Therefore, they have entered into an MoU dated 15.12.2010 on the specific terms and conditions mentioned therein.

5. Respondent had filed a suit in O.S.No.2540 of 2015 against the petitioner for permanent injunction restraining the petitioner, his agents, servants, representatives, associates, from forcible collection of money, cheques etc., from the respondent without providing proper & detailed accounts of the alleged dues against the disputed amount, in interfering with the day-to-day activities of the respondent by infringing

his legal rights in any manner, without following the due process of law.

6. During pendency of the said suit, petitioner herein has filed I.A.No.138 of 2016 in O.S.No.2540 of 2015 under Section 8 of the Arbitration and Conciliation Act, 1996, to refer the suit to the arbitrator.

7. Respondent opposed the said application stating that the suit is for injunction simplicitor and denied the execution of MoU between the parties. Therefore, application filed under Section 8 of the Arbitration and Conciliation Act, is not maintainable, and the same is liable to be dismissed.

8. Although the respondent denied the execution of MoU, the learned Trial Court observed that an MoU was entered into by the parties. However, *vide* impugned order, learned trial Court dismissed the said I.A holding that the suit for perpetual injunction being equitable relief, no order can be passed by the arbitrator by taking away the jurisdiction of civil Court. Therefore, the said I.A is not maintainable.

9. As discussed supra, the respondent and M/s.Ennar Marketing represented by the petitioner herein have entered into MoU dated 15.12.2010 on the specific terms and conditions mentioned therein. Clause 8 of the said MoU deals with arbitration and the same is extracted hereunder:

“8. Both the parties have agreed that in case in dispute arises in reference to the terms and the conditions relating to this understanding, the same shall be referred to the sole arbitrator by name Mr.B.Deepak Senncheti, 3-5-1/5, Ramkote, Hyderabad, whose decision shall be final and binding upon both the parties.”

9. Section 8 of the Arbitration and Conciliation Act, deals with the power to refer parties to arbitration where there is an arbitration agreement. The same is relevant and extracted hereunder:

“8. Power to refer parties to arbitration where there is an arbitration agreement.

- [(1) A judicial authority, before which an action is brought in a matter which is the subject of an arbitration agreement shall, if a party to the arbitration agreement or any person claiming through or under him, so applies not later than the date of submitting his first statement on the substance of the dispute, then, notwithstanding any judgment, decree or order of the Supreme Court or any Court, refer the parties to arbitration unless it finds that prima facie no valid

arbitration agreement exists.] [Substituted by Act [No. 3 of 2016](#) dated 31.12.2015.]

(2) The application referred to in sub-section (1) shall not be entertained unless it is accompanied by the original arbitration agreement or a duly certified copy thereof.

[Provided that where the original arbitration agreement or a certified copy thereof is not available with the party applying for reference to arbitration under sub-section (1), and the said agreement or certified copy is retained by the other party to that agreement, then, the party so applying shall file such application along with a copy of the arbitration agreement and a petition praying the Court to call upon the other party to produce the original arbitration agreement or its duly certified copy before that Court.] [Inserted by Act [No. 3 of 2016](#) dated 31.12.2015.]

(3) Notwithstanding that an application has been made under sub-section (1) and that the issue is pending before the judicial authority, an arbitration may be commenced or continued and an arbitral award made.”

10. In **Sundaram Finance Limited and another v. T.Thankam**¹, placing reliance on the principle laid down in **Hindustan Petroleum Corporation Limited v. Pinkcity Midway Petroleums**², **Magma Leasing and Finance Ltd. V.Potluri Madhavalata**³ Hon’ble Apex Court held that even in a suit for perpetual injunction, the Civil Court has to refer the matter to arbitrator in terms of Section 8 of the Act, 1996. When an agreement contains an arbitration clause, it is

¹ (2015) 14 Supreme Court Cases 444

² (2003) 6 SCC 503

³ (2009) 10 SCC 103

mandatory for the civil Court to refer the dispute to an arbitrator in view of the preemptory language of Section 8 of the Act.

11. Without considering the said aspects, learned trial Court dismissed the aforesaid interlocutory application filed by the petitioner vide order in I.A.No.138 of 2016 in O.S.NO.2540 of 2015. Therefore, the same is not on consideration of Section 8 of the Arbitration and Conciliation Act and the principle laid down by the Hon'ble Supreme Court in the aforesaid judgments. Therefore, it is liable to be set aside and accordingly, set aside.

12. In the light of the same, Sri D.Ravinder Sharma, Retired District and Sessions Judge, Mobile No.9848790929, H.No.13-10-95, Flat No.201, Vyshnavi Apartments, New Gaddiannaram, Hyderabad, is appointed as an arbitrator to adjudicate the dispute between the petitioner and the respondent.

13. Accordingly, this revision petition is allowed.
Miscellaneous applications, if any, shall stand dismissed.
There shall be no order as to costs.

K. LAKSHMAN, J

B.R.MADHUSUDHAN RAO, J

23rd July, 2026.
KVS