

Karnataka High Court.

Before: Justice Suraj Govindaraj

MINIONS VENTURES PRIVATE LIMITED – Petitioner,

Versus

HARDIK SHAH and others – Respondents.

Civil Misc Petition 290 of 2021

(i) Arbitration and Conciliation Act, 1996, S. 7 - An arbitration agreement has to be in writing - It could be signed by the parties or it could come into existence by parties having exchanged the same electronically or otherwise, thereby meaning that the same is not essentially required to be signed by the parties - Employment Agreement produced does have an arbitration clause, but has not been signed - Petitioner has been unable to produce any document to establish exchange of Employment Agreement between the parties which could signify and/or indicate the consent on part of the respondent to the arbitration clause during the course of exchange - Existence of an Arbitration agreement between the petitioner and respondent under the Employment Agreement has not been established. [Para 22.4, 22.5]

(ii) Arbitration and Conciliation Act, 1996. S. 7 - Arbitration agreement binds only one of the several persons who are parties to a dispute - Cause of action cannot be split - Arbitration agreement between the petitioner and respondent No.1 not proven hence dispute between Petitioner and Respondent No.1 to arbitration would not at all arise - Cause of action qua Respondent No. 2, which is governed by an Arbitration clause cannot be split and there would be no purpose served by only referring the dispute of the Petitioner with Respondent No.2 to Arbitration - Held, there cannot be splitting of causes of action one between the civil suit and the other arbitral proceedings. Hence, the dispute alleged by the petitioner against the respondents cannot be split and referred to arbitration. *Sukanya Holdings Pvt. Ltd. v. Jayesh H. Pandya and Ors., (2003) 5 SCC 351, relied.* [Para 23.3, 23.4]

(iii) Arbitration and Conciliation Act, 1996 - Arbitration being a special remedy which can be created only under a [contract](#), the same not having been created and come into being the remedy of the petitioner is only by way of ordinary civil and/or criminal remedies - If the arbitration clause would not apply, the petitioner would be entitled to initiate civil proceedings and/or criminal proceedings as against the respondents. [Para 24.2]

Order

Suraj Govindaraj, J. - (11 August, 2022) -

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