

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU**

Arb P No. 93/2024

Brij Mohan Sawhney Th. Madan
Murari Sawhney

.....Appellant(s)/Petitioner(s)

Through: Mr. RKS Thakur, Advocate with
Ms. Priyanka Bali, Advocate

vs

Suman Gupta and ors.

..... Respondent(s)

Through: Mr. Nigam Mehta, Advocate

Coram: HON'BLE MR. JUSTICE RAJNESH OSWAL, JUDGE

ORDER(ORAL)

26.12.2025

1. This petition has been filed by the petitioner under section 11 of the J&K Arbitration and Conciliation Act for appointment of an Arbitrator in respect of the dispute arising out of the partnership business, which the petitioner and predecessor in interest of the respondents, namely, Lt. Sh. Sanjeev Kumar Gupta were carrying out in terms of the partnership deed dated 23.07.1984.
2. It is stated that as the predecessor in interest of the respondents did not render the accounts and pay the dues to the petitioner, he filed a suit for rendition of accounts and recovery of his share against the predecessor in interest of the respondent in the court of 1st Additional District Judge, Jammu. In the said suit, the predecessor in interest of the respondents presented the application under Section 8 of the J&K Arbitration and Conciliation Act, leading to the order dated 10.09.2016, whereby the learned trial court held that in view of the Arbitration clause, it has no jurisdiction. The said judgment was

assailed by the petitioner before this Court and incidently, I decided that appeal also in terms of order dated 25.08.2023. Thereafter, the petitioner claims to have served a legal notice dated 19.12.2023 upon the predecessor in interest of the respondents, intimating him that he has appointed Sh. Ajay Pal Singh, Advocate as Arbitrator for deciding the dispute raised by him. The said notice came to be replied by Sh. Sanjeev Gupta in terms of reply dated 16.01.2024, whereby, he refused to settle the dispute by Arbitration. Unfortunately, Sh. Sanjeev Kumar Gupta came to demise on 19.03.2024, leaving behind the respondents as his legal heirs.

3. This is how the petitioner has come up with the present petition.
4. Though respondent Nos. 1 and 2 have filed response. Respondent Nos. 3 and 4 have also adopted the reply filed by respondent Nos. 1 and 2 as is evident from the order dated 19.12.2025.
5. In the response, it is stated that the petition is hopelessly barred by limitation and the petitioner has not annexed the partnership deed.
6. Mr. RKS Thakur, learned counsel for the petitioner has reiterated the submission as recorded above. He has produced the partnership deed dated 23.07.1984.
7. Mr. Nigam Mehta, learned counsel for the respondents has submitted that the petition is hopelessly time barred.
8. Heard learned counsel for the parties.
9. As is evident from the partnership deed dated 23.07.1984, the petitioner and the predecessor in interest of the respondent had entered into partnership for running the business under the banner M/s Sanjeev Exporters Ramsoo. Further in terms of clause 8 of the partnership

deed, any dispute between the parties has to be decided under the Jammu and Kashmir Arbitration and Conciliation Act. As already mentioned above, the petitioner and the predecessor in interest of the respondents were already in litigation before the court of learned 1st Additional District Judge, Jammu and it was the predecessor in interest of the respondents only who had laid a motion under Section 8 of the Arbitration and Conciliation Act for referring the parties for Arbitration which was allowed by the learned trial court and upheld by this Court.

10. In view of the above, I appoint Sh. Suneet Gupta, Retired District and Sessions Judge as sole Arbitrator, who shall proceed in the matter in accordance with the provisions of the Act. The Arbitrator shall, therefore, after hearing both the parties make an award within the time provided in the Act itself after charging the prescribed fee along with incidental expenses to be shared by the parties.
11. Registry to inform the above named Arbitrator about his appointment as an Arbitrator in this matter.
12. The petition is, accordingly, **disposed of.**

(RAJNESH OSWAL)
JUDGE

Jammu
26.12.2025
Neha-II

Whether the order is speaking:	Yes
Whether the order is reportable:	No