

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR
(Through Virtual Mode)

CJ Court

Case : Arb P No. 20/2025

Date of Pronouncement: 28.11.2025

Uploaded on: 01.12.2025

Aqib Muzaffer Sofi

..... Appellant/Petitioner(s)

Through: Mr. Sajad Ahmad Mir, Advocate
Mr. Haaris Khan, Advocate

Vs

Riyaz Ahmad Sofi and others

..... Respondent(s)

Through: Mr. Sameer ul Hamid, Advocate

Coram: HON'BLE THE CHIEF JUSTICE

ORDER

(ORAL)

1. The present petition has been filed under Section 11 (6) of the Arbitration and Conciliation Act, 1996, seeking appointment of an arbitrator.
2. The petitioner is the partner and the Managing Director of M/s Zeal Store, Tengpora, Batamaloo, Srinagar, deals with merchandise business. The petitioner and respondents had entered into partnership business, by virtue of Partnership Deed executed on 20.06.2017, dealing with general items, under the name and style of M/S Zeal Store with its principal place of business at Tengpora, Srinagar and branch office at Kokerbazar. It had been agreed between the partners that whatever assets will be acquired after the partnership those shall be divided equally between the partners as per their share ratio. After execution of the partnership deed, partners pursued the business concern together. However, upon closely looking into the partnership deed and its legal consequences and repercussions, the petitioner observed that disputes had arisen, as some of the partners were claiming to be exclusive owners of the assets purchased in the name of firm. The petitioner also discovered that certain

fraudulent and mischievous partnership deeds (notarized) had been executed behind his back by some of the partners. There has also been mismanagement of profits and funds which, although was brought to the notice of partners by the petitioner, but nothing has been done till date.

3. The petitioner served a communication/notice dated 05.04.2025 upon the respondents regarding appointment of arbitrator by the partners, which communication has not been replied to. The respondents' contention regarding the unilateral appointment of an arbitrator has been strongly objected by the petitioner in light of the Arbitration and Conciliation Act, yet no response has been received from the respondents. A religious clergy, Mr. Mufti Nasrul Islam, was approached for an opinion without the consent and authorization of the petitioner and not even by all the partners. Ultimately on 07.01.2025, he stated that all the partners shall take a special oath to clear doubts and divide the properties as per Muslim Personal Law, which, however, is not a decision or an award at all. The said award has been stayed by the court of Additional District Judge, Srinagar vide order dated 08.05.2025.

3. The petitioner, by invoking Section 9 of the Arbitration and Conciliation Act, filed an application before the Additional District and Sessions Judge, Srinagar, who, vide order dated 11.06.2025, restrained the respondents from operating the bank accounts of the business firm without prior leave of the court and directed the petitioner to initiate proceedings under Section 11 within 15 days from the date of the order. The respondents were also directed to furnish complete bank statement and financial records for the proceeding 5 years upto 30th May 2025 within 7 days from the date of the order.

4. The petitioner had initially referred the matter to respondents for mutual settlement and negotiation, but as they failed to resolve the disputes amicably, the petitioner was constrained to approach this Court.

5. Pursuant to the notice issued by this Court, the respondents had caused appearance and filed their response contending, *inter alia*, that prior to filing of the present petition, the petitioner has not served any notice/communication upon the respondents for invoking arbitration and for appointment of arbitrator. It is submitted that the petitioner is making false and frivolous claims of M/s Zeal Store having office at Tengpora Batamaloo, Srinagar, whereas in

reality M/s Zeal Store has no concern with the property situated at Tengpora Batamaloo, Srinagar. It is further submitted that the petitioner has neither invested a single penny into the partnership firm nor any property has been acquired from the income of the partnership firm and no agreement was entered by the parties, wherein the parties have agreed that any property acquired after the commencement of the partnership business will be divided between the parties. There is no fraudulent or mischievous partnership deed executed by the respondents. The respondents have not done any mismanagement of the profits/moneys of the partnership firm nor any such fact has been brought up by the petitioner. It is also denied that any award has been passed by Mr. Mufti Nasir Ul Islam. However, the petitioner had committed various irregularities in the business of the partnership firm, which compelled the respondents to issue a notice dated 21.04.2025 to the petitioner for dissolution of partnership firm and the same has been received by the petitioner through registered post on 28.04.2025 wherein the partnership firm/business was determined and the petitioner was requested to settle the accounts of the partnership firm, however, till date the petitioner has neither replied to the said notice nor has settled the accounts of the partnership firm. The respondents have not caused any interference into the business of the partnership firm and had sought dissolution of the partnership firm due to the conduct and acts of the petitioner.

6. Heard learned counsel for the parties.
7. The existence of the arbitration clause, as aforesaid, and its invocation by the petitioner vide notice dated 05.04.2025 is not disputed.
8. Thus, having argued the matter at some length and in the given circumstances, learned counsel for the respondents, as always, fairly submits that let an arbitrator be appointed. But since the claim that is sought to be made by the petitioner is vehemently disputed/denied, it is submitted that respondents be granted liberty to raise all possible pleas/objections before the arbitral tribunal/arbitrator in this regard.
9. In the given facts and circumstances, coupled with statement made at the Bar by learned counsel for the respondents, the petition is allowed. Accordingly, with consent of learned counsel for the parties, Mr. M.Y.Akhood, Retired District & Sessions Judge (Mobile No. 7006769456) is appointed as the

sole arbitrator. Who shall proceed with the matter in accordance with the provisions of the Act. And to 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.

10. Registry to send a copy of this order to the learned arbitrator.

(ARUN PALLI)
CHIEF JUSTICE

Jammu :
28.11.2025
Pawan Chopra/Secy

