

**IN THE HIGH COURT OF JAMMU & KASHMIR AND LADAKH AT
SRINAGAR**

Reserved on: 05.12.2025

Pronounced on: 11.12.2025

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*Whether the operative part
or full judgment is
pronounced: **Full***

Arb P. No.24/2025

HAJI ABDUL AHAD BHAT & ANR.

...PETITIONERS/APPELLANT(S)

Through: - Ms. Mehreen Altaf, Advocate.

Vs.

MOHAMMAD YOUSUF BHAT

...RESPONDENT(S)

Through: - Mr. J. H. Reshi, Advocate.

CORAM: HON'BLE MR. JUSTICE SANJAY DHAR, JUDGE

JUDGMENT

1) The petitioners have filed the present petition under Section 11 read with Section 14 of the Arbitration and Conciliation Act, 1996, seeking termination of mandate of the Sole Arbitrator, Shri Abdul Rashid Lone (former District & Sessions Judge) and substitution of a new Arbitrator.

2) The facts leading to the filing of the present petition are briefly stated hereunder:

(I) The respondent herein had filed a petition under Arbitration and Conciliation Act, seeking appointment of an Arbitrator before this Court. Vide order dated

04.11.2013, the petition was allowed and Sh. Abdul Rashid Lone, retired District & Sessions Judge, was appointed as Arbitrator to arbitrate between the respondent and the petitioners herein relating to the disputes involved in the petition and to file award within three months.

(II) Pursuant to the aforesaid order passed by this Court, the learned Arbitrator entered upon the reference and thereafter proceeded to pass award dated 04-11-2019, which came to be challenged by the petitioners herein by preferring a petition under Section 34 of the Arbitration and Conciliation Act before the learned Additional District Judge (Bank Cases), Srinagar, who vide the judgment dated 16-04-2022, came to the conclusion that the award of the Arbitral Tribunal is patently illegal and against the public policy of Indian law, inasmuch as the learned Arbitrator has left the main disputes between the parties unresolved. Accordingly, the Arbitration award was set aside

(III) Aforesaid judgment dated 16-04-2022, passed by the learned Additional District Judge (Bank Case), Srinagar, came to be challenged by the respondent herein before this Court by invoking Section 37 of the Arbitration and Conciliation Act. This Court vide

judgment dated 08.12.2023, allowed the appeal partly and the impugned judgment passed by the learned Additional District Judge (Bank Case), Srinagar, to the extent of setting aside the award of the learned Arbitrator, was set aside and the matter was remanded to the learned Arbitrator with a direction to pass a fresh award so as to resolve the disputes between the parties finally after taking note of the observations made by this Court in the said judgment. The Arbitrator was directed to pass a fresh award within a period of three months. It would be apt to note the observations made by this Court in its judgment dated 08-12-2023, in the light of which the learned Arbitrator was required to pass a fresh award:

“13. Adverting to the facts of the instant case, as already indicated, the learned Arbitral Tribunal has failed to decide all the disputes arising between the parties finally and it has left the crucial aspect of the matter relating to partition of the joint properties of the parties to the discretion of valuers, Chartered Accountants as also to the conscience of the parties. An Arbitrator is expected to decide the disputes between the parties finally and not leave it unresolved. To “arbitrate” means “to resolve the disputes”. By not finally resolving the disputes between the parties, the learned Arbitrator has not exercised the jurisdiction that was vested with him. If at all the learned Arbitrator was feeling difficulty in assessing the value of the joint properties, while earmarking the shares and partitioning the properties amongst the parties, it was open to him to take resort to the provisions contained in Section 26 of the Arbitration and Conciliation Act which vests power with the Arbitrator to appoint experts to report on specific issues to be determined by the

Arbitral Tribunal. In terms of Section 27 of the Arbitration and Conciliation Act, an Arbitral Tribunal is even empowered to take assistances of the Court in taking evidence. In the instant case, the learned Arbitrator by not taking assistance of the provisions contained in Section 26 and 27 of the Act and instead delegating his functions to valuers and Chartered Accountants to be identified by the parties, has abdicated his duties as an Arbitrator.

14. The learned Arbitrator has, therefore, in the aforesaid circumstances of the case misconducted the proceedings though the misconduct on his part is not on account of any malice, dishonesty or fraud, meaning thereby that the misconduct of the learned Arbitrator is not from the moral point of view but it is a misconduct on the his part in the conduct of the proceedings, inasmuch as the award passed by the learned Arbitrator has failed to achieve the objective of resolving the dispute between the parties. When a dispute between the parties is referred for resolution by an Arbitrator, the award of the Arbitrator has to meet the requirements of reasonableness and sound objective outcome. If these requirements are not met, the arbitral proceedings as also the outcome warrant intervention by the Court.”

- (IV) It seems that after the matter was remanded to the learned Arbitrator, he passed a fresh award on 15.04.2024, vide which the award dated 04-11-2019 passed by the said Arbitrator was resubmitted and reaffirmed. The learned Arbitrator, while passing the fresh award dated 15-04-2024, made the following observations:

The Valuer Er. Mohammad Iqbal Khan in his report has reported that several communications were sent to the parties and even were contacted on phone and several reminders were given to them but in response only petitioner Mohammad Yousuf Bhat attended his office on 24.02.2024 and accompanied him to his residential house for

spot inspection. Physical inspection was done and the valuation process of the residential house and the land underneath was done. The Valuer has filed his valuation report of the property which has been taken on record. He has reported that the other assets which are in occupation of respondents never came forward for the valuation process and have not cooperated in the valuation process till date. The report filed by him on 12.04.2024 has been taken on record.

Thus, while perusing the reports of the experts, it is clear that though the petitioner has cooperated in the rendition of accounts process to some extent and for valuation of his residential house, but the respondents have not cooperated with Chartered Accountant for rendition of accounts and to the Valuer for conducting the valuation of the properties which are under their occupation. It is very unfortunate that the respondents who challenged the award on the pretext that the issues like rendition of accounts and valuation of the disputed properties have not been made by the Tribunal and on these grounds the award was set aside by the District Court and in appeal the Hon'ble High Court referred the case back for adjudication of these unresolved issues. Though, the petitioner cooperated with the experts but the respondents have not cooperated in the process of rendition of accounts and valuation of properties.

Having taken into consideration the reports filed by the experts, it is clear that nothing addition has come in the further trial of the case as the parties neither produced documents before the Chartered Accountant so that the allegations and counter allegations could be verified on which it could be ascertained whether there is any claim pending of either party against each other and nothing has come on file in this behalf. Therefore, it is clear that the claims of the parties that there is any dispute with regard to the accounts is just hoax and nothing else. It has not changed the status of the award.

Similarly, when the report of the Valuer is taken into consideration, though the petitioner cooperated but the respondents have not cooperated. Though opportunity was granted to the respondents to get valued the disputed properties through Valuer but the respondents did not cooperate and the position is the same as the award was passed on 04.11.2019. The respondents cannot blame the Tribunal that valuation process has not been conducted. In the award dated 04.11.2019 option has been kept that the valuation of the disputed properties can be made also in the execution process and the valuation as made by the Valuer for the residential house of the petitioner can be taken into account while the other disputed properties will be valued and difference if any in between the parties in favour of the parties can be taken into consideration.

- (V) The aforesaid award dated 15-04-2024, was challenged by the petitioners herein under Section 34 of the Arbitration and Conciliation Act before the Additional District Judge Bank Cases (Designated Commercial Court), Srinagar. The learned Commercial Court, vide order dated 23-07-2025, again remanded the matter to the learned Arbitrator for his fresh decision by making the following observations:

After going through the arbitral award dated 15-04-2024 what transpires is that the learned arbitrator despite the directions of the Hon'ble High Court to pass a fresh award in view of observations made by the Hon'ble High Court in the judgment dated 08-12-2023 has failed to pass the award accordingly and the dispute which was left unresolved and unsettled in the award dated 04-11-2019 has again remained untouched, unsettled/ unresolved. There is not even an iota of addition in the fresh award vis-à-vis

the determination of issues and dispute of partition of properties and rendition of accounts between the parties which were left undecided earlier. The arbitrator has rather blamed the parties that they did not attend the offices of experts and the learned arbitrator could not complete the process of rendition of accounts and valuation of disputed properties.

For the reason that the fresh award dated 15-04-2024 is inconclusive and non-executable for want of rendition of account and valuation of disputed properties, therefore, in order to make the award executable after determination of shares of the parties, the proceedings in this execution are deferred for the time being and arbitral tribunal is directed to resume the arbitral proceedings vis-à-vis the rendition of accounts of partnership business of the parties, partition of the joint properties and assets and adjustment of their respective shares and to find out how the parties will compensate each other for any disparity, if found. The learned arbitrator is directed to furnish the report to this court within a period of 30 days keeping in view the pendency of this execution and the age of arbitral proceedings going on between the parties.

- (VI) It seems that after passing of the aforesaid order dated 23-07-2025 by the Designated Commercial Court Srinagar, the learned Arbitrator has again entered upon the reference and passed order dated 29.07.2025, whereby experts have been again directed to resume the process of rendition of the accounts and valuation of the disputed properties. It has been further provided that the experts and valuers shall issue notice to the parties in this regard and the report has been sought from the experts and valuers. The

matter was posted by the learned Arbitrator to 30th August, 2025. It is at this stage that the petitioners have filed the present petition under Section 11 read with Section 14 of the Arbitration and Conciliation Act, seeking termination of mandate of the Arbitrator and his substitution by a fresh Arbitrator.

3) It has been contended that the petitioners are not aggrieved of the matter being referred back to the Arbitrator, but they are seeking termination of mandate of the Arbitrator and appointment of a new Arbitrator on the grounds that the learned Arbitrator has again left it for the Chartered Accountant and the Valuers to issue notices to the parties and to conduct the proceedings. On this basis, it has been contended that the Arbitrator is biased and incapable of resolving the disputes between the parties. It has been contended that the petitioners have participated regularly in the arbitration proceedings but the Arbitrator has failed to acknowledge the same and has observed that they have not cooperated in the proceedings which is against the record. It has also been contended that the learned Arbitrator has not been able to resolve the disputes between the parties despite having conducted the arbitration proceedings for more than 11 years. It has been contended that the learned Arbitrator has flouted the directions of the

High Court and he is again shying away from commencing the arbitration proceedings afresh and is shifting his burden on third persons. On these grounds, it has been contended that the mandate of the Arbitrator is required to be terminated and a fresh Arbitrator is required to be appointed in his place.

4) I have heard learned counsel for the parties and perused record of the case.

5) In the first place, this Court has to decide as to whether mandate of the Arbitrator appointed by it in terms of order dated 04-11-2013 can be terminated by way of the present proceedings. It is only if it is found that his mandate can be terminated in these proceedings that the question as to whether a fresh Arbitrator has to be appointed in the facts and circumstances of the case would come up for consideration before this Court.

6) The petitioners, in order to seek termination of mandate of the Arbitrator, have invoked the provisions of Section 14 of the Arbitration and Conciliation Act, which reads as under:

14. Failure or impossibility to act.—(1)
2 [The mandate of an arbitrator shall terminate and he shall be substituted by another arbitrator, if—

(a) he becomes *de jure* or *de facto* unable to perform his functions or

for other reasons fails to act without undue delay; and

(b) he withdraws from his office or the parties agree to the termination of his mandate.

(2) If a controversy remains concerning any of the grounds referred to in clause (a) of sub-section (1), a party may, unless otherwise agreed by the parties, apply to the Court to decide on the termination of the mandate.

(3) If, under this section or sub-section (3) of section 13, an arbitrator withdraws from his office or a party agrees to the termination of the mandate of an arbitrator, it shall not imply acceptance of the validity of any ground referred to in this section or sub-section (3) of section 12.

7) From a perusal of the aforesaid provision, it becomes clear that the mandate of an Arbitrator can be terminated and he can be substituted by another Arbitrator if he becomes *de jure or de facto* unable to perform his functions or for other reasons fails to act without undue delay and if he withdraws from his office or the parties agree to termination of his mandate. As per sub-section (2), quoted above, a controversy concerning the first ground, if it has not been agreed upon by the parties, can be decided by the Court if any of the parties applies to the said Court, meaning thereby that the question as to whether an Arbitrator has become *de jure or de facto* unable to perform his functions or for other reasons fails to act without undue delay, has to be determined by the Court if any of the parties applies to the Court.

8) In the present case, the petitioners claim that the learned Arbitrator has been unable to perform his functions, firstly because he has caused undue delay in culminating the arbitration proceedings and secondly because the learned Arbitrator has flouted the order of the High Court by re-submitting the same award without resolving the disputes finally between the parties. It is also being contended that the observation of the learned Arbitrator that the petitioners are not cooperating with the arbitration proceedings is contrary to the record and that the learned Arbitrator is delegating his functions to the experts and valuers.

9) Before going into the merits of the aforesaid contentions raised by the petitioners, it needs to be ascertained as to which “Court” has the jurisdiction to terminate the mandate of the Arbitrator in terms of Section 14 of the Act. It has to be seen whether this Court, while exercising its powers under Section 11(6) of the Arbitration and Conciliation Act or for that matter, the Commercial Division of the High Court, while exercising its powers under Section 14 of the Arbitration and Conciliation Act, is competent to determine the merits of these issues in the facts and circumstances of the present case.

10) In the above context, definition of the “Court” as appearing in sub-section (2) of Section 14 of the Arbitration

and Conciliation Act assumes significance. “Court” has been defined in Section 2(1)(e) of the Arbitration and Conciliation Act to mean:

(i) in the case of an arbitration other than international commercial arbitration, the principal Civil Court of original jurisdiction in a district, and includes the High Court in exercise of its ordinary original civil jurisdiction, having jurisdiction to decide the questions forming the subject-matter of the arbitration if the same had been the subject-matter of a suit, but does not include any Civil Court of a grade inferior to such principal Civil Court, or any Court of Small Causes;

(ii).....

11) From a perusal of the aforesaid definition of the “Court”, it is clear that in the case of an arbitration, the principal Civil Court of original jurisdiction in a district which includes the High Court in exercise of its ordinary original civil jurisdiction, having jurisdiction to decide the questions forming the subject matter of the arbitration, is included in the definition of the “court”, meaning thereby that, in the context of present case, it can be principal Civil Court of original jurisdiction in District Srinagar or this Court in exercise of its ordinary original civil jurisdiction which would come within the definition of “Court” as contained in sub-section (2) of Section 14 of the Arbitration and Conciliation Act. Thus, in case of the eventualities mentioned in Section 14(1)(a) of the Arbitration and Conciliation Act, the remedy available to the party would be

to approach the “Court” as defined under Section 2(1)(e) of the Arbitration and Conciliation Act.

12) The Supreme Court has, in the case of **Swadesh Kumar Agarwal v. Dinesh Kumar Agarwal and others**, AIR 2022 SC 2193, while explaining the aforesaid aspect of the matter, held that the issue relating to termination of mandate of the Arbitrator under Section 14 of the Act is to be decided by the Court as defined under Section 2(1)(e) of the Act and not in an application under Section 11(6) of the Act. The relevant observations of the Supreme Court are reproduced as under:

6.7 Therefore, on a conjoint reading of section 13, 14 and 15 of the Act, if the challenge to the arbitrator is made on any of the grounds mentioned in section 12 of the Act, the party aggrieved has to submit an appropriate application before the Arbitral Tribunal itself. However, in case of any of the eventualities mentioned in section 14(1)(a) of the Act, 1996 and the mandate of the arbitrator is sought to be terminated on the ground that the sole arbitrator has become de jure and/or de facto unable to perform his functions or for other reasons fails to act without undue delay, the aggrieved party has to approach the concerned "court" as defined under section 2(e) of the Act, 1996. The concerned court has to adjudicate on whether, in fact, the sole arbitrator/ arbitrators has/have become de jure and de facto unable to perform his/their functions or for other reasons he fails to act without undue delay. The rea-son why such a dispute is to be raised before the court is that eventualities mentioned in section 14(1)(a) can be said to be a disqualification of the sole arbitrator and

therefore, such a dispute/controversy will have to be adjudicated before the concerned court as provided under section 14(2) of the Act, 1996.

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8. Even otherwise, once the arbitrator was appointed by mutual consent and it was alleged that the mandate of the sole arbitrator stood terminated in view of section 14(1)(a) of the Act, 1996, the application under section 11(6) of the Act, 1996 to terminate the mandate of the arbitrator in view of section 14(1)(a) of the Act shall not be maintainable. Once the appointment of the arbitrator is made, the dispute whether the mandate of the arbitrator has been terminated on the grounds set out in section 14(1)(a) of the Act, shall not have to be decided in an application under section 11(6) of the Act, 1996. Such a dispute cannot be decided on an application under section 11(6) of the Act and the aggrieved party has to approach the concerned "court" as per sub-section (2) of section 14 sub- of the Act.

13) Thus, from the foregoing analysis of the legal position, it is clear that a dispute with respect to termination of mandate of the Arbitrator under Section 14(1)(a) can be raised before the Court as defined under Section 2(1)(e) of the Arbitration and Conciliation Act and the question relating to substitution by another Arbitrator has also to be decided by the same Court. It is also clear that these questions cannot be gone into in a proceeding under Section 11 of the Arbitration and Conciliation Act by Hon'ble the Chief Justice or his Designate.

14) Another issue that arises for consideration relates to the interpretation of the expression “Court” as defined in Section 2(1)(e) of the Act, in the light of the provisions contained in Section 42 of the Act. This provision restricts the jurisdiction over arbitral proceedings and all subsequent applications to a particular Court. It reads as under:

42.Jurisdiction.—*Notwithstanding anything contained elsewhere in this Part or in any other law for the time being in force, where with respect to an arbitration agreement any application under this Part has been made in a Court, that Court alone shall have jurisdiction over the arbitral proceedings and all subsequent applications arising out of that agreement and the arbitral proceedings shall be made in that Court and in no other Court.*

15) From a perusal of the aforesaid provision, it is clear that where with respect to an arbitration agreement any application under Part-1 of the Arbitration and Conciliation Act has been made in a Court, that Court alone would have jurisdiction over the arbitral proceedings and all subsequent applications arising out of that agreement and the arbitral proceedings shall be made in that Court and in no other Court, which means that if a party to the arbitration agreement has filed an application under Part-1 of the Arbitration and Conciliation Act in a particular Court, all subsequent applications have to be made in that Court alone and not in any other Court even if the other Court does have jurisdiction over the subject matter of dispute.

16) In the present case, the initial application under Section 11(6) of the Arbitration and Conciliation Act came to be filed before this Court whereas the application under Section 34 of the Arbitration and Conciliation Act against award dated 04.11.2019 passed by the learned Arbitrator came to be filed before the Court of Additional District Judge Bank Cases (Designated Commercial Court), Srinagar. There has been a consistent view of the Supreme Court and this Court that Hon'ble the Chief Justice or his Designate, while exercising his powers under Section 11(6) of the Arbitration and Conciliation Act does not come within the definition of "Court" as contained in Section 2(1)(e) of the Arbitration and Conciliation Act.

17) The Supreme Court has, in the case of **State of West Bengal and others v. Associates Contractors**, (2015) 1 SCC 32, while noticing the provisions contained in Section 2(1)(e) and Section 42 of the Arbitration and Conciliation Act, held that Section 42 only applies to the applications made under Part-1, if they are made to a Court defined under Section 2(1)(e) of the Arbitration and Conciliation Act. It has been further held that the applications under Section 11 of the Arbitration and Conciliation Act are made to the Chief Justice or his Designate who are not Court as defined under Section 2(1)(e) of the Arbitration and Conciliation Act and

such application would be outside the purview of Section 42 of the said Act. The relevant observations of the Supreme Court are reproduced as under:

25. *Our conclusions therefore on Section 2(1)(e) and Section 42 of the Arbitration Act, 1996 are as follows:*

(a) Section 2(1)(e) contains an exhaustive definition marking out only the Principal Civil Court of Original Jurisdiction in a district or a High Court having original civil jurisdiction in the State, and no other court as “court” for the purpose of Part I of the Arbitration Act, 1996.

(b) The expression “with respect to an arbitration agreement” makes it clear that Section 42 will apply to all applications made whether before or during arbitral proceedings or after an award is pronounced under Part I of the 1996 Act.

(c) However, Section 42 only applies to applications made under Part I if they are made to a court as defined. Since applications made under Section 8 are made to judicial authorities and since applications under Section 11 are made to the Chief Justice or his designate, the judicial authority and the Chief Justice or his designate not being court as defined, such applications would be outside Section 42.

(d) Section 9 applications being applications made to a court and Section 34 applications to set aside arbitral awards are applications which are within Section 42.

(e) In no circumstances can the Supreme Court be “court” for the purposes of Section 2(1)(e), and whether the Supreme Court does or does not retain seisin after appointing an arbitrator, applications will follow the first application made before either a High Court having original jurisdiction in the State or a Principal Civil Court having original jurisdiction in the district, as the case may be.

(f) Section 42 will apply to applications made after the arbitral proceedings have come to an end provided they are made under Part I.

(g) If a first application is made to a court which is neither a Principal Court of Original

Jurisdiction in a district or a High Court exercising original jurisdiction in a State, such application not being to a court as defined would be outside Section 42. Also, an application made to a court without subject-matter jurisdiction would be outside Section 42.

The reference is answered accordingly.

18) A similar view has been taken by a Full Bench of this Court in the case of **Ramesh Chand Kathuria and anr. v. M/S Trikuta Chemicals Pvt. Ltd. and anr.** AIR 2015 J&K 52. The relevant observations made by this Court are quoted hereinbelow:

43. It is concluded that:

(i) High Court of Jammu and Kashmir being court of civil original jurisdiction and the District Courts in the District is the principal civil courts of original jurisdiction, so both are the courts within the meaning of section 2(1)(e) of the Act.

(ii) When against the arbitral award, on grievances, both the parties file applications under Section 34 of the Act for setting aside the award, on the same date, before the District Court as well as High Court, then the case is to be heard by the High Court.

(iii) In case against the arbitral award, parties have filed the applications under section 34 of the Act for 28 setting aside the award in both High Court and District Court on different dates, in that eventuality, the court before which first application was filed shall have the jurisdiction to decide the matter, as has been held in para 22 of the Atlanta judgment (supra).

(iv) Applications under various provisions of the Act which include Section 8, Section 11 and interim measure under Section 17 dealt with by the authorities are not the courts within the meaning of section 2(1)(e) of the Act, therefore, section 42 of the Act is not attracted.

(v) A request for appointment of arbitrator in terms of Section 11 of the Act has to be made to Hon'ble the Chief Justice or any person or institution as shall be designated for the purpose. In this connection, Hon'ble two Judges respectively for Jammu and

Srinagar Wing have been designated. So the application under section 11 of the Act are to be considered by the designated Judges and any such application has not to be treated disposed of by the court within the meaning of section 2(1)(e) read with Section 42 of the Act.

(vi) Against the interim measure made by the arbitral tribunal, appeal is permissible under section 37(2) of the Act which can be filed both before the High Court as well as District Court which are the courts within the meaning of section 2(1)(e) of the Act. 29

(vii) Suitor is a dominus litis. When two forums are available to him, he has a choice of instituting the suit in either of the forums. As already concluded that both High Court being court of civil original jurisdiction and District Court being court of civil original jurisdiction in the district, therefore, application for setting aside the award under section 34 of the Act can lie in either of the Courts. So if only one party is aggrieved, he has a choice to file the application under section 34 of the Act either in High Court or in the District Court. But in case application under section 9 is filed in either of the Court then subsequent applications including application under section 34 of the Act for setting aside the award has necessarily to be filed in the same court and in none other court. There the principle of dominus litis becomes irrelevant.

(viii) Again where both the parties are aggrieved, both have a choice to file application for setting aside the award under section 34 of the Act in either of the courts, but again the position of them being dominus litis becomes irrelevant because as already concluded in case on the same date, application by one party in High Court and by another party in the District Court then choice for jurisdiction has to be the High Court, provided earlier an application under section 9 of the Act is not 30 filed in either of the Courts, otherwise the application under section 34 of the Act has to be filed in the court where earlier application under section 9 of the Act for interim relief was filed.

(Emphasis added)

19) From the foregoing analysis of the legal position on the subject, it is clear that the Chief Justice or his Designate, while exercising powers under Section 11(6) of the Arbitration and Conciliation Act, is not exercising powers of

Court as defined under Section 2(1)(e) of the Arbitration and Conciliation Act. Thus, even if an application under Section 11(6) of the Act in the present case was filed before the High Court prior to the filing of other proceedings, still then Section 42 of the Arbitration and Conciliation Act would not be attracted and it cannot be stated that the parties to the present case had approached this Court in the first instance and, therefore, all other applications would lie before this Court in view of the mandate of Section 42 of the Act.

20) The first application in the present proceedings which has been filed before a Court as defined under Section 2(1)(e) of the Arbitration and Conciliation Act was made before the Additional District Judge Bank Cases, Srinagar, while challenging award dated 04.11.2019 passed by the learned Arbitrator. Therefore, all subsequent applications including the application under Section 14(1)(a) of the Arbitration and Conciliation Act would lie before the said Court alone and not before any other Court. As has been held by the Supreme Court in **Swadesh Kumar Agarwal's** case (supra), in a proceeding under Section 11 of the Arbitration and Conciliation Act, the Chief Justice or his Designate cannot replace one Arbitrator already appointed in exercise of the arbitration agreement, therefore, the mandate of the Arbitrator appointed by this Court in the present case can

be terminated by the Court of Additional District Judge Bank Cases (Designated Commercial Court), Srinagar, alone by exercising its powers under Section 14(1)(a) of the Arbitration and Conciliation Act and an order for substitution of the Arbitrator can be made by the said Court alone keeping in view the provisions contained in Section 42 of the Arbitration and Conciliation Act. The present petition before this Court is, therefore, not maintainable.

21) For all what has been discussed hereinabove, the present petition is dismissed, leaving it open to the petitioners to approach the appropriate forum.

SRINAGAR

11.12.2025

“Bhat Altaf-Szeg”

Whether the **Judgement** is speaking: **YES**
Whether the **Judgement** is reportable: **YES**

(Sanjay Dhar)
Judge