

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR
(Through virtual mode)**

FAO (D) No. 3/2023

Adil Hafiz Beigh & Ors.

.....Applicant(s)/Petitioner(s)

Through :- Mr. Shuja-ul-Haq, Advocate

v/s

Abdul Majid Bhat & Ors.

.....Respondent(s)

Through :- Mr. Bashir Ahmed, Advocate

**CORAM: HON'BLE MR. JUSTICE SANJEEV KUMAR, JUDGE
HON'BLE MS. JUSTICE SINDHU SHARMA, JUDGE**

**ORDER
10.10.2025**

(Sanjeev Kumar J)

1. This appeal, by the appellants under Section 13 (1-A) of the Commercial Courts Act, arises from an order dated 06.12.2022 passed by Commercial Court, Srinagar on an application moved by the appellants for vacating the order of injunction passed on 09.12.2021 and 02.09.2022.
2. This appeal has emanated from a suit filed by Respondent No. 1 before the Commercial Court, Srinagar seeking declaration, rendition of accounts and recovery of money in respect of a partnership firm "M/S Hafizullah Beigh". During the pendency of this appeal and on the desire shown by learned counsel appearing on behalf of both the sides to have the dispute raised in the suit with regard to the partnership resolved through the appointment of an Arbitrator, this Court granted time to the parties to move a joint application in this regard. This is evident from the order dated 28.02.2025.

3. In response to the order (supra) and pursuant to the settlement arrived at between the parties, an application being CM No. 1840/2025 was moved by the appellants for appointment of an Arbitrator to arbitrate upon the dispute between the appellants and Respondent No. 1 in regard to the partnership business and accounts of “M/S Hafizullah Beigh”.
4. Similar application being CM No. 6471/2025 has been filed by Respondent No. 1-the only contesting respondent, for appointment of an Arbitrator to arbitrate upon the dispute between the appellants and the Respondent No. 1 over the partnership business and accounts of “M/S Hafizullah Beigh”, stated to have been dissolved by Respondent No. 1 on 10.10.2021. In this way, the parties instead of filing a joint application for appointment of an Arbitrator have filed two separate applications expressing their desire for appointment of an Arbitrator to settle the dispute.
5. Having regard to the nature of dispute involved and the consensus arrived at by both the sides that the subject matter of suit and other disputes between the parties deserve to be resolved through arbitration, **the suit pending before the Commercial Court from where the order impugned in this appeal has arisen and as also the instant appeal, are disposed of**, relegating the parties to the remedy of Arbitration chosen by them by mutual consent.
6. Since, both the parties have given their consent for appointment of an independent Arbitrator, as such, **we direct the appointment of Sh. Mohd. Yousaf Akhoon, District Judge (Retired) as a sole Arbitrator** to resolve the dispute between the parties with regard to the partnership in question as also the subject matter of the suit,

strictly as per the provisions of Arbitration and Conciliation Act, 1996.

7. The learned Arbitrator shall be free to seek the assistance of a Chartered Accountant or some other person well conversant with the accounts in the matter and the fee charged by such Chartered Accountant/Expert as determined by the learned Arbitrator shall be shared by both the parties equally. The learned Arbitrator shall, however, be free to fix his fees in accordance with law.
8. Copy of this order shall be sent to learned Arbitrator to enter upon reference and make the award within the statutory period in accordance with provisions of the Act of 1996.

JAMMU
10.10.2025
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