

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

Arb P No. 70/2025

Vijay Kumar

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

Through: Mr. Ajay Abrol, Advocate.

vs

Charan Singh and others

..... Respondent(s)

Through: Mr. Rahul Pant, Sr. Advocate with
Mr. Dhruv Pant, Advocate.

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

ORDER

12.03.2026

1. This is an application filed by the petitioner under Section 11(6) under Arbitration and Conciliation Act, 1996 (for short '*the Act*') for appointment of an independent Arbitrator to adjudicate upon the dispute regarding shares of the partners of the firm, namely, M/s Upkar Stone Crusher.
2. It is stated that a partnership deed was executed on 11.04.2005, duly registered before the Sub-Registrar, Jammu and the shares of the partners were notified in the partnership deed. The petitioner further claims to have continued to be partner of the firm and the amount invested by the petitioner in the firm is shown as loan/credit in view of the latest return filed by the firm with the Income Tax Department. It is stated that the petitioner, for the last two years, has been pressing for rendition of the accounts of the firm, but on the contrary, the respondent No. 1 disclosed the petitioner, an affidavit attested on

12.07.2010, wherein it has been stated that the petitioner intends to retire from the firm. The petitioner has specifically stated that the affidavit has been forged by the respondent No. 1, as he has never signed the said affidavit and further has not retired from the firm in accordance with law. The petitioner further claims to have served a legal notice dated 18.07.2025 upon the respondents for reference of the dispute to an independent Arbitrator and even proposed the name of Sh. Suresh Sharma, Retired District and Sessions Judge for adjudication of the dispute, but the respondent No. 1, in terms of reply dated 11.08.2025, stated that because of execution of the affidavit, there is neither any existence of partnership deed nor arbitration agreement between the parties.

3. The respondents have filed the response stating therein that the petition is hopelessly barred by limitation, as after reconstitution of the partnership in the year 2018, the petitioner has not placed on record a single document to show receipt of any share of profits, participation in management, or even any contemporaneous correspondence asserting rights as a partner. It is further stated that the petitioner has retired from the partnership business on 09.07.2010 and all the accounts had been settled. The respondent No. 1 has relied upon the notice of retirement dated 09.07.2010 as also the affidavit duly sworn by the petitioner. It is further stated that the reliance placed by the petitioner upon the Income Tax returns of the year 2024-25 does not show the petitioner as partner and he is only shown as creditor from

whom an unsecured loan has been obtained for an amount of Rs. 4.00 Lacs.

4. Heard learned counsel for the parties.

5. The execution of the partnership deed dated 11.04.2005 and also the notice dated 14.07.2025 issued by the petitioner, whereby the petitioner had invoked the arbitration, has not been objected to by the respondents. The respondents have not at all denied the execution of the partnership deed and also the arbitration clause contained in the said deed, however, the contention of the respondent No. 1 is that the petitioner has already retired from the firm, which is duly substantiated by the notice of retirement and affidavit duly sworn by the petitioner. On the other hand, the petitioner has stated that the said affidavit has been forged and not executed by the petitioner.

6. The contention of the respondents that the petitioner has retired can be decided by the Arbitrator. Since partnership deed and the arbitration clause contained in the said partnership deed has not been denied by the respondents, though it is the stand of the respondent No. 1 that the petitioner has retired from the partnership, this Court is of the considered view that Arbitrator is required to be appointed to settle the dispute between the parties. The respondents, more particularly the respondent No. 1, are well within their right to put forth their defence before the learned Arbitrator, so as to enable him to return a finding as to whether the petitioner has retired from partnership or not.

7. At this stage, the parties have suggested the name of Mr. Deepak Sethi, Retired District and Sessions Judge to be appointed as sole Arbitrator.
8. In view of the above, I appoint Mr. Deepak Sethi, 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, after hearing both the parties, make an award within the time provided in the Act itself after charging the prescribed fee, to be shared by the parties.
9. Registry to inform the above-named Arbitrator about his appointment as an Arbitrator in this matter.
10. **Disposed of.**

(RAJNESH OSWAL)
JUDGE

Jammu
12.03.2026
Sahil Padha

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