

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

Arb P No.20/2026

Gulzar Ahmad Bhat and Others

...Petitioner.

Through: Ms. Ahra Syed, Advocate

Vs.

Mohammad Yaseen Dar and Another

....Respondent(s)

Through: Mr. Mudasir Bin Hassan, Advocate

**CORAM:
HON'BLE THE CHIEF JUSTICE**

ORDER
18.09.2026

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 case of the petitioners is that they entered into partnership business with the respondents by constituting a partnership firm under the name and style of M/s Al-Madina Multi Specialty Hospital, situated adjacent to Sports Stadium, Prichoo, Pulwama. Consequently, a Partnership Deed was executed between the parties on 24.07.2025 which came to be registered before the Sub-Registrar, Pulwama on 07.08.2025. Among other clauses, the partnership deed contained a clause 6 which provided for reference of disputes to a Sole Arbitrator under the Arbitration and Conciliation Act, 1996.
3. It is stated that the petitioners hold 50% share in the partnership, while the respondents, being husband and wife, jointly hold the remaining 50% share. The petitioners claim to have invested a sum of Rs. 2.00 Crores between August and September, 2025 as capital towards development and construction of the hospital, which was to be commissioned by or before 30.09.2025.

4. It is further pleaded by the petitioners that despite receipt of the aforesaid amount, respondent No. 1 failed to complete the infrastructural works for the said hospital within the stipulated period and also failed to furnish the accounts or details regarding utilization of funds.

5. It is further stated that the respondents in complete breach of the partnership deed, more particularly, Clauses 3 & 7 thereof, are attempting to take over exclusive control over the management and physical possession of the hospital and intend to exclude petitioner No. 01, thereby obstructing installation of medical equipment and jeopardizing the partnership firm.

6. The petitioners, faced with this situation, are stated to have filed petition under Section 9 of the Arbitration and Conciliation Act, 1996 before the learned Additional District Judge, Srinagar seeking interim protection of the partnership assets pending arbitration, and in terms of the order dated 03.04.2024, the respondents were restrained from entering, interfering with or obstructing the hospital premises and ongoing infrastructural works until the hospital is commissioned or until passing of the final arbitral award.

7. The petitioner, thereafter, invoked Clause 6 of the Partnership Deed by serving a legal notice upon the respondents requesting for appointment of an arbitrator to adjudicate upon the disputes arisen between the parties. Owing to the failure of the respondents to appoint an arbitrator in the matter, the petitioner has been constrained to approach this Court. Hence, the petition at hand.

8. Pursuant to the notice issued by this Court, the respondents had caused appearance and filed their response. The respondents *inter alia* contend that the petition is not maintainable on the ground that the petitioners have suppressed material facts. It is stated that pursuant to the interim order dated 05.02.2026, an exit arrangement was arrived between the parties whereby petitioners No. 2 and 3 agreed to retire from the partnership for a consideration of Rs. 3,15,00,000/-. It is further stated that an Affidavit-cum-Undertaking dated 25.02.2026 was executed and pursuant thereof, a sum of Rs. 2,10,00,000/- has already been paid which fact has not been disclosed by the petitioners.

9. It is further contended that the petitioners have relied upon Clause 6 of the partnership deed dated 24.07.2025 while neglecting the fact that the said partnership deed came to be superseded by subsequent partnership deed dated 17.10.2025 and on this basis, the respondents dispute the existence of arbitration agreement and reference of disputes to the arbitration.

10. While going through the objections, the existence of the arbitration clause, as aforesaid, and its invocation by the petitioner is not disputed. Accordingly, learned counsel for the respondents, as always, fairly submits that let an arbitrator be appointed, but submits that since the petition is not maintainable, the respondents be granted liberty to raise all possible pleas/objections before the Arbitral Tribunal/Arbitrator in this regard.

11. Accordingly, in the wake of the position sketched out above, the petition is allowed. And, with consent of learned counsel for the parties, Mr. Justice Tashi Rabstan, Retired Chief Justice of High Court of Jammu and Kashmir & Ladakh, residing at Plot No. 2, Lane No. 13, Tawhi Vihar, Sidhra, Jammu-180019, (Mobile No. 9419266111) 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. The respondents shall be free to raise all the objections as regards the subject matter before the learned Arbitrator.

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

(DR. PUSHPENDRA SINGH BHATI)
CHIEF JUSTICE

Srinagar
18.09.2026
Aamir