

* HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN
AND
HON'BLE SRI JUSTICE N. BALAYOGI

+ Civil Revision Petition Nos.2911 & 3138 of 2017

% Date: 25-07-2017

C.R.P.No.2911/ 2017

Between:

Mohammed Imaduddin Farooqui
S/o. Late Md. Raoofuddin Farooqui,
R/o. 8-2-588/A3, Road No.8,
Banjara Hills, Hyderabad.

Petitioner/Defendant No.4

Vs.

1. Karkhana Zinda Tilismath, having office at 2-3-728, Amberpet, Hyderabad, rep. by its Managing Partner, Mr. Mohammed Masihuddin Farooqui, S/o. Late Hakeem Mohammed Moizuddin, R/o.8-2289/9/2, Road No.14, Banjara Hills, Hyderabad.

Respondent/plaintiff

2. State Bank of Hyderabad, Nallakunta Branch, Nallakunta, Hyderabad per Branch Manager.
3. Central Bank of India, Tulsi Nagar Branch, Tulsi Nagar, Hyderabad by its Branch Manager.
4. Canara Bank, Basheerbagh Branch, rep. by its Branch Manager.
5. Akbarunnisa Begum, D/o. Late Hakeem Mohammed Moizuddin, R/o. 22-1-957/A/2, Aziz Bagh, Noor Khan Bazar, Hyderabad.
6. Badarunnisa Begum, D/o. Late Hakeem Mohammed Moizuddin, R/o. C/o K. Zamir Ahmed, Karnataka Armoury, 217, Bangalore Road, Bellary.
7. Asgharunnisa Begum, D/o. Late Hakeem Mohammed Moizuddin, R/o. 69 Huda Heights, Road No.12, Banjara Hills, Hyderabad-500 034.
8. Smt. Ismathunnisa Begum, D/o. Late Hakeem Mohd Moizuddin, R/o. Plot No.243, Chandra Colony, Mess Road, Cantonment, Bellary-583 104
9. Mohammed Qwaisuddin Farooqui, S/o. Late Mohd. Minhanuddin Farooqui, R/o. 3-1-298, Kachiguda, Hyderabad.
10. Smt. Farisa zam, D/o. Late Shakeemunnisa Begum, R/o. H.No.11-5-266, Red Hills, Hyderabad.
11. Smt. Karimunnisa Begum Herbals Pvt. Ltd., Office at 8-2-674/2/B/\$/2, Road No.13, Banjara Hills, Hyderabad-500 034.
12. Mohammed Sahailuddin Farooqui, S/o. Late Mohd. Hashimuddin Farooqui, R/o.6-3-1239/1/1, Somajiguda, Hyderabad.
13. Mr. Sara Ahmed, D/o. Late Saheerunnisa Begum, R/o. H.No.6-3-456/A/10, Dwarkapuri Colony, Punjagutta, Hyderabad.
14. Ali Azam S/o. Late Ahmedi Begum, R/o. 265, Road No.14, Banjara Hills, Hyderabad.

Respondents/defendants

!Counsel for the petitioner : Mr. M.R.K. Chakravarthy

^ Counsel for respondents : Mr. S.R. Mahajir

C.R.P.No.3138/ 2017

Between:

Badarunnisa Begum, W/o. Rasheed Ahmed,
D/o. Late Hakeem Mohammed Moizuddin,
R/o. Door No.268, Main Road, C.B, Ballari District,

Karnataka State, rep. by her G.P.A. Holder,
Mohammed Naemathulla, S/o. Late Mohammed Ahmedullah
R/o. H.No.8-1-329/A/1/10/1, Koh e Sar Colony, Shaikpet,
Tolichowki, Hyderabad-500 008

Petitioner/Defendant No.6

Vs.

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Respondents/defendants

!Counsel for the petitioner : Mr. D. Srinivas represented by
Mr. M.V. Durga Prasad

^ Counsel for respondents : Mr. S.R. Mahajir

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? Cases referred

1. (2003) 5 SCC 531
2. (2013) 1 SCC 641
3. AIR 1983 Calcutta 376
4. 2015 (4) ALD 409 (DB)
5. AIR 1960 SC 1156
6. 2007 CanLII 33118
7. 2008 (1) Lloyd's Rep 254 (HL)
8. (2009) 2 SCC 55
9. 2013 SGHCR 5

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH

Delivered on : 25 -07-2017

Coram :

THE HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN
AND
THE HON'BLE SRI JUSTICE N. BALAYOGI

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Counsel for respondents : Mr. S.R. Mahajir

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ORDER: (Per VRS,J.)

Aggrieved by the dismissal by the trial Court of two applications filed under Section 8 of the Arbitration and Conciliation Act, 1996, one filed by the 4th defendant and the other filed by the 6th defendant in a suit, the defendants 4 and 6 have come up with the present civil revision petitions.

2. Heard Mr. M.V. Durga Prasad, learned counsel appearing for the petitioners in both the writ petitions and Mr. S.R. Mahajir, learned counsel appearing for the 1st respondent/plaintiff.

3. The 1st respondent in these revisions is said to be a partnership firm, started way-back in the year 1920 and constituted later under the Indian Partnership Act, 1932. The constitution of the partnership underwent changes from time to time depending upon various exigencies, since it was primarily a partnership among the members of the same family.

4. It appears that by a Deed of Partnership dated 05.07.2012, the relationship among the partners was redefined. But one of the partners by name Ahmadi Begum died on 29.03.2013, after which a fresh Deed of Partnership was entered into on 30.03.2013. This Deed of Partnership contained a clause for arbitration and the whole dispute now revolves around the scope and ambit of the arbitration clause. The arbitration clause reads as follows:

“In the event of any dispute or difference of opinion arising among the partners in any manner connected with the partners in connection with interpretation of any of the clauses herein, such disputes or differences shall be referred to an Arbitrator or Arbitrators to be appointed with the consent of the majority of parties herein and the decision of such an Arbitrator or Arbitrators shall be final and binding on all the parties herein, subject to, however to the law of Arbitration for the time being in force in the State.”

5. It appears that one of the partners by name Mohammed Raofuddin Farooqui, who was named at Sl.No.1 in the Deed of Partnership, died. Therefore,

as per clause 10(b) of the Deed of Partnership dated 30.03.2013, his legal heirs nominated one Mr. Mohammed Imaduddin Farooqui, as the person to be admitted into partnership. Though there was virtually no dispute about the entitlement of the said Mohammed Imaduddin Farooqui to be admitted into the partnership, it was claimed by the surviving Managing Partner Mr. Mohammed Masihuddin Farooqui that there was a procedure to be followed as per the Deed of Partnership, even for the induction of the legal heir of a deceased partner and that before the said procedure was completed, Mohammed Imaduddin Farooqui could not be considered as partner.

6. It appears that a few partners joined together and floated a Limited Liability Partnership on the ground that Clause 15 of the Partnership Deed contemplates such a creation. The said Limited Liability Partnership was sought to be registered with the Registrar of Companies and necessary forms were uploaded online. Objecting to the creation of a Limited Liability Partnership without his consent, the surviving Managing Partner sought a reference of the dispute to arbitration, but the same was resisted by one group on the ground that the dispute did not fall within the four corners of the Arbitration Agreement.

7. In the meantime, the Limited Liability Partnership was registered and letters were addressed to the banks freezing the accounts of the partnership firm. Therefore, the 1st respondent herein, who is the surviving Managing Partner filed a suit seeking the following reliefs.

- i) Restraining the defendant No.4 herein from interfering in the affairs of the plaintiff firm till such time as he is inducted as a partner into the same through proper resolution passed by the plaintiff at meetings convened with proper notice enabling participation of all partners;
- ii) Restraining the defendant Nos.4 to 14 from prejudicing the interests of the plaintiff firm interdicting normal banking operations, obstructing statutory payments or otherwise obstructive of normal business receipts and payments for transactions of the partnership business by addressing plaintiff's bankers in respect of plaintiff's bank accounts being current account No.520119742662 with State Bank of Hyderabad, Nallakunta Branch, defendant No.1 herein, current account No.1483104592 with

Central Bank of India, Tulsi Nagar Branch, the defendant No.2 herein, AND current account No.0878261000007 with Canara Bank Basheerbagh Branch the defendant No.3 herein, and/or intimidation or threatening of staff members;

- iii) Restraining the defendants 1 to 3 from accepting or acting on any instructions referable to operation of plaintiff's accounts with them, being current account No.520119742662 with State Bank of Hyderabad, Nallakunta Branch, defendant No.1 herein, current account No.1483104592 with Central Bank of India, Tulsi Nagar Branch, the defendant No.2 herein, AND current account No.0878261000007 with Canara Bank Basheerbagh Branch the defendant No.3 herein, originating from any source other than the partnership business which is their account holder;
- iv) Restraining the defendants 4 to 14 from filing electronically or otherwise and/or uploading
- v) Any forms, applications etc. on to any statutory web site in relation to the plaintiff firm, projecting it as converted into LLP or otherwise, except upon and consistent with proper resolution passed by the plaintiff at meetings convened with proper notice enabling participation of all partners; and
- vi) Such other and further orders be passed as may be just and proper in the circumstances of the case and in the interests of justice.

8. Upon receipt of the summons in the suit, the 4th defendant in the suit namely Mohammed Imaduddin Farooqui filed an application in I.A.No.826 of 2016 and 6th defendant in the suit filed an application in I.A.No.5 of 2017 under Section 8 of the Arbitration and Conciliation Act, 1996. The said applications were resisted by the plaintiff on the grounds, *inter alia* – (1) that the Arbitration Agreement as found in Clause 15 of the Deed of Partnership was restrictive in nature and did not cover the disputes of this nature; and (2) that since the reliefs sought in the suit are not only against the persons, who were parties to the Arbitration Agreement, but also against third parties including Banks as well as a person yet to be admitted into the partnership, the dispute in the suit cannot be referred to arbitration.

9. The trial Judge agreed with the defences put up by the plaintiff and dismissed both the applications under Section 8. Therefore, the defendants 4 and 6 are before us.

10. Though the learned counsel on both sides attempted to draw our attention to the core areas of dispute between the partners, we do not think that this Court should go into the nature of the disputes, especially in a revision arising out of an application under Section 8, in which the objections to the application are purely legal in nature. Once it is admitted that there was an Arbitration Agreement between the parties to a dispute, an order allowing the application under Section 8 is the rule and the rejection is the exception. Therefore, it is enough if we see whether the plaintiff in the suit has raised valid grounds for the rejection of the application under Section 8, despite the admitted position that there was an Arbitration Agreement.

11. As we have pointed out earlier, the plaintiff raised two issues in defence to the application under Section 8. Those very same issues would arise for consideration in this revision, and they are, -

- (1) Whether the dispute in question can be referred to arbitration when some of the reliefs sought in the suit are also against third parties; and
- (2) Whether the Arbitration Agreement between the parties is restrictive in nature so as to exclude the type of dispute that is now before the civil Court, from arbitrability.

ISSUE No.1:

12. It is most fundamental to the Law of Arbitration that not only the disputes but also the method of resolution of disputes is in the realm of a contract. Therefore, by its very nature, only those disputes arising as between the parties to a contract can be referred to arbitration. Parties, who are not privy to the Contract/Arbitration Agreement, cannot be forced to subject themselves to

arbitration. This aspect has been clarified by the Supreme Court in *Sukanya Holdings Pvt. Ltd., v. Jayesh H. Pandya*¹.

13. At the same time, the Supreme Court, in subsequent decisions took note of the attempts made by the parties to rope in third parties, just for the purpose of avoiding an arbitration and cautioned against Courts falling a prey to such designs. In *Chloro Controls India Pvt. Ltd., v. Severn Trent Water Purification Inc.*², the Supreme Court pointed out that joinder of non-signatory parties to arbitration is not completely unknown to the arbitration jurisprudence. Two legal theories that recognised such a jurisprudence were identified by the Supreme Court in *Chloro Controls*, and they are – (1) the theory of implied consent, under which third party beneficiaries, guarantors, assignees and the transferees of contractual rights were held liable to be joined; and (2) the theory under which certain legal doctrines such as agency, apparent authority, piercing of the corporate veil, joint venture relationships, succession and estoppel are applied.

14. Apart from the theories noted in *Chloro Controls*, Courts have also recognised a most fundamental principle that if merely for the purpose of avoiding an arbitration, an artificial dispute is created on the basis of an illusory cause of action against persons, who are not parties to the Arbitration Agreement, the Courts can look beyond and find out the real intention of the parties.

15. Keeping these legal principles in mind, if we now have a look at the reliefs sought by the plaintiff in the suit, it can be seen that the plaintiff sought three types of injunctive reliefs. One set of injunctive reliefs were sought against the 4th defendant on the ground that he was yet to be admitted into the partnership and that therefore, he is a stranger to the arbitration agreement. The second set of injunctive reliefs were sought against the existing partners, viz.,

¹(2003) 5 SCC 531

² (2013) 1 SCC 641

defendants 5 to 14 either from paralysing the banking operations of the firm or from filing any forms with any statutory authorities projecting a Limited Liability Partnership. The third set of injunctive reliefs was sought against three nationalized banks, viz., State Bank of Hyderabad, Central Bank of India and Canara Bank.

16. The objections as to the arbitrability of the dispute on the ground that the defendants to the suit are not parties to the Arbitration Agreement is actually restricted to the three nationalised banks, which are arrayed as defendants 1 to 3, and to the 4th defendant, who according to the plaintiff was yet to be admitted into the partnership, though he is admittedly entitled to be admitted.

17. Insofar as defendants 1 to 3 are concerned, the injunctive reliefs sought under paragraphs 38(iii) of the plaint, are nothing but a reproduction of the same reliefs, as sought against defendants 4 to 14 under para 38(ii). In other words in Para 38 (ii) the plaintiff sought to restrain defendants 4 to 14 from paralysing the banking operations by writing letters etc., to those three banks, in respect of the current accounts maintained by the firm. The relief sought in para 38(iii) is to prohibit the banks from acceding to or acting upon any instructions issued by defendants 4 to 14.

18. Strictly speaking a partnership firm cannot seek an injunction against the bank, restraining them from acting upon any information including that of any dispute between the partners. This is why the plaintiff also seeks an injunction against his own partners. In any case, assuming that the plaintiff succeeds in securing an injunction in terms of para 38(ii) of the plaint, the grievance of the plaintiff as against the banks would stand satisfied. If despite the plaintiff securing a decree of injunction against its own partners, they still write to the banks and the banks act upon such communications, the same may tantamount to an independent cause of action. But the cause of action for the reliefs sought in paragraphs 38 (ii) and 38(iii) is one and the same and hence the dispute is, in substance, only as against defendants 4 to 14 and not against the

Banks, which are defendants 1 to 3. Since the dispute now pending before the civil Court is in substance, a dispute between the plaintiff and defendants 4 to 14, the mere impleadment of defendants 1 to 3 and the seeking of relief as against them, would not take the dispute out of the purview of the Arbitration Agreement. Hence, Question No.1 should be answered against the 1st respondent/plaintiff and in favour of the petitioners/defendants 4 & 6, insofar as the banks are concerned.

19. That takes us to the second para of Question No.1, viz., as to whether the suit was maintainable at least as against the 4th defendant.

20. The answer to this question would depend upon whether the 4th defendant is already a partner or not. If he is already a partner, he is a party to the Arbitration Agreement. If he is not a partner he stands outside the Arbitration Agreement.

21. In normal circumstances, the objection as to the arbitrability of a dispute on the ground that there are non-parties to the arbitration agreement is always raised by those third parties. This objection is based on the premise that a person, who is not a party to the Arbitration Agreement cannot be forced to go for arbitration against his will. In the case on hand, the very claim of the 4th defendant was that he was already a partner by operation of law in terms of Clause 10(b) of the Partnership deed. Irrespective of whether his claim is right or not, he is a person, who wants to go for arbitration. Therefore, it may not be open to the plaintiff to say that the 4th defendant is not a party to the Arbitration Agreement and that therefore, despite his willingness to go for arbitration, the plaintiff would not agree.

22. Another important aspect is that today the civil Court, if allowed to proceed with the suit, will be called upon to record a finding as to whether the 4th defendant has automatically become a partner by operation of law in terms of Clause 10(b) of the Partnership Deed or whether he has merely acquired a right to be admitted into partnership. Assuming hypothetically that the civil Court

comes to the conclusion that the 4th defendant has already become a partner by operation of law, then the civil Court would be prohibited from proceeding further in view of the application taken out by the 4th defendant under Section 8. On the contrary, defendants 5 to 14, who are admittedly entitled to seek the resolution of the dispute through arbitration, can always get this question adjudicated by the arbitrator himself. Therefore, we cannot agree with the contention that the presence of the 4th defendant made the dispute not arbitrable. Hence, the reliance placed on *Sukanya Holdings* is without basis.

ISSUE No.2:

23. The second issue revolves around the scope and ambit of the arbitration clause. We have already extracted the arbitration clause. Yet, at the cost of repetition and for the purpose of easy reference, we shall reproduce here only the first portion of Clause 15 of the Deed of Partnership, which reads as follows:

“In the event of any dispute or difference of opinion arising among the partners in any manner connected with the partners in connection with interpretation of any of the clauses herein, such disputes or differences shall be referred to an Arbitrator”

24. Relying upon a judgment of the Division Bench of the Calcutta High Court in *Atin Bose v. Heavy Engineering Corporation Ltd.*³, and a judgment of the Division Bench of this Court in *P. Madhusudhan Rao v. Lt. Col. Ravi Manan*⁴, it is contended by Mr. S.R. Mahajir, learned counsel for the 1st respondent/plaintiff that since arbitration is the creation of a contract, it cannot go beyond the creator and that if the parties have specifically agreed to refer only a particular type of disputes to arbitration, the Court cannot compel the parties to go for arbitration in respect of the disputes not covered by the Arbitration Agreement.

25. We have carefully considered the aforesaid contentions.

³ AIR 1983 Calcutta 376

⁴ 2015 (4) ALD 409 (DB)

26. In the case before the Calcutta High Court, which arose under the 1940 Act, the dispute was between a company and its contractor. There were two sets of conditions, viz., special conditions and general conditions. In the general conditions of contract, to which a reference was made in the special conditions, there was an arbitration clause. The arbitration clause stated that the disputes in respect of the rights and obligations of the parties as to the true intent and meaning of “these presents” and “many articles of condition thereto”, shall be referred to sole arbitrator. The Division Bench of the Calcutta High Court interpreted the Arbitration Agreement to be restrictive in nature.

27. But there were two differences to be noted. The decision of the Calcutta High Court was under the 1940 Act. The Act underwent a sea change with the advent of the UNCITRAL Model Law. If two interpretations are possible with reference to an Arbitration Agreement, after the 1996 Act, the one in favour of promoting arbitration is to be adopted than the one making the Arbitration Agreement a dead letter. In any case, even under the 1940 Act, the issue has already been clinched in a decision of a 3 member Bench of the Supreme Court in *Printers (Mysore) Private Ltd., v. Pothan Joseph*⁵. In that case, the Arbitration Agreement provided that if in the interpretation or application of the contract, any difference of opinion arose between the parties, it shall be referred to arbitration. While considering the words “*Interpretation or application of the contract*”, the Supreme Court opined in para-12 as follows:

“The high Court has held that the present suit is outside the arbitration agreement because neither party disputes the applicability of the terms of the contract in the decision of the dispute. The High Court thought that in the context the words “application of the contract” meant a dispute as to the applicability of the contract, and since the applicability of the contract was not in question and no dispute as to the interpretation of the contract arose, the High Court held that para 4 was inapplicable to the present suit. Mr. Purshottam, for the appellant, contends that the construction placed by the High Court on the word “application” is erroneous. According to him, any difference of opinion in regard to the application of the contract must in the context mean the working out of the contract or giving effect to its terms. In our

⁵ AIR 1960 SC 1156

opinion, this contention is well founded. The words “interpretation or application of the contract” are frequently used in arbitration agreements and they generally cover disputes between the parties in regard to the construction of the relevant terms of the contract as well as their effect, and unless the context compels a contrary construction, a dispute in regard to the working of the contract would generally fall within the clause in a question. It is not easy to appreciate what kind of dispute according to the High Court would have attracted para 4 when it refers to a difference of opinion in the application of the contract. Since both the parties have signed the contract the question about its applicability in that form can hardly arise. Differences may, however, arise and in fact have arisen as to the manner in which the contract has to be worked out and given effect to, and it is precisely such differences that are covered by the arbitration agreement. We would accordingly hold that the High Court was in error in coming to the conclusion that the present dispute between the parties was outside the scope of para 4 of the contract.”

Therefore, the decision of the Calcutta High court arising under the 1940 Act cannot be taken as a guiding force.

28. In *P. Madhusudhan Rao*, the Division Bench of this Court did not take note of the decision of the Supreme Court in *Printers (Mysore) Private Ltd.* As a matter of fact, it was a decision which arose out of a case where even the arbitration agreement was not before the Court and the parties relied upon an extract of the arbitration clause contained in para 3 of the plaint. Therefore, the said decision, with great respect to the learned Judges, cannot be said to have laid down the correct law on the point.

29. As we have stated earlier, after the advent of the Arbitration and Conciliation Act, 1996, Courts are bound to adopt an interpretation of the arbitration agreement that would promote arbitration and not destroy arbitration. Unless a clear intention is borne out of the arbitration agreement to keep some disputes out of the purview of the arbitration and only a few disputes within the purview of the arbitration, an arbitration agreement should be interpreted according to the true intent and the purpose.

30. The principles of interpretation of an arbitration agreement that we have indicated above are accepted universally. In *Green Field Ethanol Inc. v.*

Suncor Energy Products Inc.⁶, the Ontario Supreme Court indicated that when the arbitration clause is capable of two interpretations, one of which favours arbitration, the Court should follow that interpretation. The learned authors MJ Mustill and S.C. Boyd, in their “The Law of Practice of Commercial Arbitration in England” point out that there is a presumption that the intention of the parties was that all disputes which relate to a specific transaction, will be subject to resolution by the same Tribunal.

31. In *Fiona Trust and Holding Corp. v. Privalov*,⁷, Lord Hoffmann indicated that the construction of an arbitration clause should start from the assumption that the parties, as rational businessman, are likely to have intended any dispute arising out of the relationship into which they have entered or purported to enter, to be decided by the same Tribunal.

32. The most fundamental and the widely accepted principle of interpretation applicable to arbitration agreements, is the principle of interpretation in good faith. Interpretation in good faith is nothing but looking for the intention of the parties, rather than simply restricting oneself to examining the literal meaning of the terms used. Most of the Courts throughout the world especially from countries, who are parties to UNCITRAL, have rejected the principle of strict interpretation.

33. in *Visa International Ltd. v. Continental Resources (USA) Ltd.*⁸, the Supreme Court pointed out that no party can be allowed to take advantage of inartistic drafting of arbitration clause in any agreement as long as clear intention of the parties to go for arbitration is evident from the agreement on record.

34. What was sought to be promoted by the UNCITRAL Model Law is the liberalisation of commercial arbitration by limiting the role of the Courts and by giving effect to the doctrine of autonomy. As observed by Singapore Court in

⁶ 2007 CanLII 33118

⁷ 2008(1) Lloyd's Rep 254 (HL)

⁸ (2009) 2 SCC 55

HKL Group Co. Ltd. v. Rizq International Holdings Pte. Ltd.⁹, “when faced with a pathological arbitration clause, the Court would generally seek to give effect to that clause preferring an interpretation, which does so over one which does not.”

35. Let us keep aside the law on the point for a minute and assume that only those disputes that revolve around the interpretation of the clauses contained in the Partnership Deed are capable of being referred to arbitration. Even in such a case, the 1st respondent/plaintiff cannot escape, for the simple reason that the 1st respondent's stated cause of action as against the 4th defendant was that he was interfering with the affairs of the partnership even before being admitted to the partnership. *The question as to whether the 4th defendant is already a partner or he has just acquired a mere right to be admitted to the partnership, involves the interpretation of Clause 10(b) of the Partnership Deed. Therefore, even if we give a restrictive meaning to the Arbitration Agreement, the dispute squarely falls within the ambit of the arbitration clause.*

36. Moreover, Clause 15 of the Deed of Partnership uses two sets of expressions – (1) “connected with the Partners”; and (2) “in connection with interpretation of any of the clauses herein”. If we take it that the first set of words have crept in due to inadequacy of draftsmanship, then the same logic should be applied to hold that the true intention of the parties was to have the disputes resolved through arbitration. Such a view is possible especially in this case, since the arbitration agreement filed by the plaintiff himself contains some confusion in the last page with two clauses numbered as Clause 15 and two clauses numbered as Clause 16.

37. If the first set of words used in Clause 15 of the Deed of Partnership are construed as the product of a proper application of mind, then all disputes connected with the partners are referable to arbitration.

⁹ 2013 SGHCR 5,

38. Therefore, we hold that the trial Court failed to appreciate the issues in proper perspective, leading to an illegality and irregularity warranting interference of this Court under its revisional jurisdiction. Hence, the Civil Revision Petitions are allowed, the orders of the trial Court in I.A.No.826 of 2016 and I.A.No.5 of 2017 are set aside and the applications I.A.No.826 of 2016 and I.A.No.5 of 2017 are allowed. As a consequence, the suit shall not proceed further, but the parties shall take recourse to the remedies available under the Arbitration and Conciliation Act, 1996.

39. As a sequel, miscellaneous petitions pending in these revision petitions, if any, shall stand closed.

25th July, 2017
Js



JUSTICE V. RAMASUBRAMANIAN

JUSTICE N. BALAYOGI

THE HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN
AND
THE HON'BLE SRI JUSTICE N. BALAYOGI

Civil Revision Petition Nos.2911 & 3138 of 2017
(Per VRS,J)



25th July, 2017

Js.