

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.12787 OF 2019

Shree Bhairavnath Bauxite
Utkhanan Udyog Samuh
Through Partners and Ors. .. Petitioners

vs.

The State of Maharashtra Through
Dept. of Law and Judiciary and Anr. .. Respondents

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Mr.Bhooshan R. Mandlik for the Petitioner

Mr.V.M.Mali, A.G.P. for the State

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**CORAM: K.K.TATED &
R.I.CHAGLA, JJ.
DATED : FEBRUARY 11, 2021**

P.C.

. Heard.

2. Rule.

3. Rule made returnable forthwith. By consent of both the parties, matter is taken up for hearing and final disposal at the stage of admission itself.

4. By this petition, under Article 226 of the Constitution of India, Petitioners are seeking direction against

Respondent no.2 to decide their Application dated 25.07.2017 under section 63 of the Indian Partnership Act, 1932 as early as possible i.e. to effect change their Registration. Section 63 of the said Act reads thus:

63. RECORDING OF CHANGES IN AND DISSOLUTION OF A FIRM.

(1) When a change occurs in the constitution of a registered firm, every incoming, continuing or outgoing partner, and when a registered firm is dissolved, every person who was a partner immediately before the dissolution, or the agent of every such partner or person specially authorised in this behalf shall, within a period of 90 days from the date of such change or dissolution, given notice to the Registrar of such change or dissolution, specifying the date thereof; and the Registrar shall a record of the notice in the entry relating to the firm in the Registrar of Firms and shall file the notice along with statement relating to the firm filed under section 59.

(1A) Where a change occurs in the constitution of a registered firm, all persons, who after such change are partners of the firm, shall jointly send an intimation of such change duly signed by them, to the Registrar, within a period of 90 days from the date of occurrence of such change and the Registrar shall deal with it in the manner provided by section 61.

(2) RECORDING OF WITHDRAWAL OF A MINOR.

When a minor who has been admitted to the benefits of partnership in a firm attains majority and elects to become or not to become a partner,

and the firm is then a registered firm, he, or his agent specially authorised in this behalf, shall within a period of 90 days from the date of his election, give notice to the Registrar that he has or has not become a partner, and the Registrar shall deal with the notice in the manner provided in sub-section (1).

5. The learned counsel for the Petitioners submits that said Application is pending since 2017 though they approached several times to the Respondent no.2. Hence, respondent no.2 may be directed to decide the same as early as possible on its own merits.

6. On the other hand, the learned A.G.P. for the Respondents submits that there is some dispute between the partners. Not only that criminal proceeding is also pending between the partners. Therefore, it is not possible to decide the same.

7. It is to be noted that there is nothing on record to show that there is dispute between the partners and or any litigation is pending between them. In any case, Respondent no.2 has to decide the same on its own merits by giving reasons.

8. Considering the above mentioned facts and as Application is pending since 2017 under section 63 of the said Act, the following order is passed:

a. Respondent no.2 to decide the Petitioner's Application dated 25.07.2017 under section 63 of the Indian Partnership

Act, 1932 on its own merits as early as possible but in any case on or before 19.03.2021 and inform the decision to the Petitioner in writing.

b. Writ Petition stands disposed of accordingly. No order as to costs.

(R.I.CHAGLA, J.)

(K.K.TATED, J.)