

ORDER SHEET

IN THE HIGH COURT AT CALCUTTA
ORIGINAL SIDE
COMMERCIAL DIVISION

APOT/222/2025
IA NO: GA-COM/1/2025

TUSHAR JAWAHARLAL GANDHI ALIAS TUSHAR GANDHI AND ANR.
VS
MAHENDRA SHIVLAL GANDHI AND ORS.

BEFORE:

The Hon'ble JUSTICE SHAMPA SARKAR

Date: 20th August, 2025.

Appearance:

Mr. Debnath Ghosh, Sr. Adv.
Mr. Soumavo Mukherjee, Adv.
Mr. Biswarup Mukherjee, Adv.
Mr. Indranil Munshi, Adv.
.... for the appellants

Mr. Jaydip Kar, Sr. Adv.
Mr. Siddhartha Ghosh, Adv.
...for the respondent nos. 1 & 2.

The Court: Affidavit of service is taken on record.

This is an appeal from an order dated July 26, 2025 passed by the learned sole Arbitrator.

Mr. Ghosh, learned Senior Advocate for the appellants submits that the order of the learned Arbitrator is erroneous on the following grounds:

- a) Specific challenge to the Valuer's report has not been addressed at all.
- b) The learned Arbitrator is silent on the objections raised as to the Valuer's report.
- c) Signing of cheques should be done by an independent person to be appointed as a Receiver, to avoid disruption.

Mr. Kar, learned Senior Advocate submits that the Valuer's report is yet to be accepted. The business is ongoing, and as such, third party interference would be inimical to the business.

Having heard the rival contentions of the parties, this Court finds that the learned Arbitrator has not considered prayer (d) and the supporting pleadings which were raised by the appellants in the application under section 17 of the Arbitration and Conciliation Act, 1996.

However, the learned Arbitrator has not accepted the Valuer's report as yet. Under such circumstances, this Court is of the view that, before the Valuer's report is accepted by the learned Tribunal, the appellants must be permitted to file a detailed objection to the said report and also be permitted to examine the Valuer, if necessary. With regard to the prayer that an independent third party signatory should be appointed as a Receiver to sign the cheques, this Court holds that third party interference at this stage will be detrimental to the business. The appellant No. 1 and the respondent No. 1 have been permitted by the learned Tribunal to sign the cheques which are necessary to be issued in the usual course of business. In the event, the appellant No. 1 does not sign the cheques, the respondent No. 1 has been permitted to sign the cheques. This direction has been passed by the learned Arbitrator to ensure that the business does not come to a standstill. The appellants have equal right of participation. The order is neither patently illegal, nor perverse. The equities have been balanced.

The matter of appointment of a receiver is always in the discretion of the tribunal, but discretion must be exercised judicially and according to

sound legal principles. The effect of appointing a receiver over a running partnership business is that it operates as an injunction against the other partners. Therefore, the law can be said to be settled that in case of a running partnership business, unless some special ground for appointment of a receiver can be shown, the Court will not appoint a receiver.

Under such circumstances, the Court is of the view that, this order does not call for any interference save and except as directed above with regard to the acceptance of the Valuer's report. All questions are left to be decided by the learned Arbitrator.

Mr. Ghosh's anxiety with regard to the non-consideration of his averments in the application for interim protection is put at rest, as this Court is of the view that all observations made by the learned Arbitrator while disposing of the application for interim order are tentative and the issues involved will be finally decided on merits at the final hearing.

The appeal and the application are disposed of.

(SHAMPA SARKAR, J.)