

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
ARBITRATION PETITION NO. 166 OF 2025
WITH
INTERIM APPLICATION NO. 12057 OF 2025
IN
ARBITRATION PETITION NO. 166 OF 2025

Shri Sheetalkumar Sudhakar Manere & Anr. ...Petitioners

Versus

Shri Sanjay Danchand Ghodawat & Ors. ...
Respondents

Mr. S.S. Patwardhan, *i/b Akshay Hardas, for the Petitioners.*

Mr. Tejesh Dande, *a/w Bharat Gadhavi, Y.R. Gaikwad, Jeevanvidya Joshi, sarvesh Deshpande, i/b Bharat Gadhavi, for Respondent Nos.1 to 4 & 6.*

Mr. Ajay Rajenimbalker, *(through VC) for Respondent No.5.*

CORAM : SOMASEKHAR SUNDARESAN, J.

DATE : NOVEMBER 11, 2025

ORDER :

1. This Petition has been filed under Section 11 of the Arbitration and Conciliation Act, 1996 (*“the Act”*), seeking appointment of an arbitrator in connection with disputes and differences that are said to have arisen between the parties under the Limited Liability Partnership Agreement dated November 20, 2012 (*“LLP Agreement”*).

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2. The arbitration agreement is contained in Clause 16.4 (found at Page 40 of the Petition). In the interest of brevity, the arbitration agreement is not being extracted here. Suffice it to say that this matter falls within the jurisdiction of this Court.

3. The shares in the LLP have undergone a modification by subsequent agreements dated February 13, 2016 and June 2, 2016. Evidently, disputes and differences exist between the parties and invocation of arbitration was effected on April 26, 2025. Thereafter, this Petition came to be filed on May 9, 2025 and on July 30, 2025 a further invocation notice, this time against the LLP was also issued.

4. The Respondents raises objections to the reference to the arbitration on four fundamental grounds. The *first* is that the notice dated September 3, 2024 sought a dissolution of the LLP as if it were an ordinary partnership firm. The LLP being a body corporate is not amenable to dissolution, and therefore, it is submitted that proceedings in furtherance of dissolution are not maintainable making it a non-arbitrable dispute.

5. *Second*, it is stated that the subsequent agreements do not replicate the arbitration clause and merely state that the terms and conditions of the LLP Agreement would continue unaltered. This is said

to be contrary to the law declared *in NBCC (India) Limited Vs. Zillion Infraprojects Private Limited*¹.

6. The *third* objection is that the invocation insofar as it is addressed to the LLP has been issued after the filing of the Section 11 Application rendering the Application premature insofar as it relates to the LLP and thereby reference to the LLP not being maintainable.

7. *Finally*, it is stated that criminal complaints filed by the Respondents in Maharashtra and Karnataka are examining serious allegations of fraud and therefore matters of a criminal nature cannot be referred to arbitration.

8. Having heard the parties, in my opinion, the existence of an arbitration agreement cannot be disputed inasmuch as Clause 16 of the LLP Agreement sets out a specific and explicit arbitration agreement. As regards the objections, since LLP cannot be dissolved at the mere will of a party, being a body corporate, it would be appropriate to treat the notice dated September 3, 2024 simply as a notice claiming that disputes exist between the parties. Be that as it may, considering that a specific invocation notice has been issued in particular on April 26, 2025, the ingredients of Section 21 have also been met and thereafter

¹ (2024) 7 SCC 174

this Petition has been filed. Since the invocation notice has met with an outright denial of a need to arbitrate, the Section 11 Petition has come to be filed.

9. The law declared in **NBCC (India)** would not be applicable in my opinion to the facts of a case where the very same agreement is being amended by two subsequent iterations. **NBCC (India)** laid down the law in respect of connected contracts which would be linked to the parent contract which alone has an arbitration clause. Be that as it may, since each of these subsequent supplementary deeds articulate the fact that the terms and conditions of the LLP Agreement other than those amended thereby would continue to govern the parties, in my opinion, no case has made out for holding up the reference to the arbitral tribunal on this count.

10. As regards the third objection, since the first invocation notice has been issued to all the partners and that did not meet with appointment of the arbitral tribunal, the Petition has been filed. The LLP, is in any case a '*veritable party*' to the arbitration proceedings since it is but the object and subject of the LLP Agreement among the other parties. The separate invocation against the LLP was not strictly necessary but since even that invocation has been effected now, in my

opinion, it would not be an infirmity of a nature that would impede the reference to arbitration for the invocation originally made. In any case, as per law declared in ***ASF Buildtech***², whether to treat a veritable party as a party to the proceedings is a matter squarely within the domain of the arbitral tribunal itself and therefore, the date of invocation against the LLP would not be of consequence in this matter.

11. *Finally*, the complaints about criminality are again those raised by the Respondents and it is now clear in terms of the law declared in ***Deccan Paper***³ that one particular factual matrix may entail civil as well as criminal consequences. The ability of an arbitral tribunal to adjudicate the civil disputes between the parties would not get impeded merely because the criminality has been alleged and may have also gained traction as has been submitted in the instant case.

12. Therefore, in my opinion, no useful purpose would be served in keeping this proceeding pending any further. Disputes and differences between the parties in connection with the LLP Agreement as amended by the two iterations thereafter are hereby referred to arbitration by an arbitral tribunal appointed in the following terms:-

² ***ASF Buildtech (P) Ltd. v. Shapoori Pallonji & Co. (P) Ltd.*** - 2025 SCC OnLine SC 1016

³ ***Deccan Paper Mills Co. Ltd. v. Regency Mahavir Properties*** - (2021) 4 SCC 786

A) Smt. Justice Mridula Bhatkar, a former judge of this Court, is hereby appointed as the Sole Arbitrator to adjudicate upon the disputes and differences between the parties arising out of and in connection with the Agreement referred to above;

Office Address:- Mumbai office – 501, Saket,
Near Bal Mohan Vidya Mandir,
M. B. Raut Marg, Shivaji Park,
Dadar (W), Mumbai – 400 028.

Pune Office – Miracle Glory,
Sopan Baug, Balewadi,
Pune – 411 045

B) A copy of this Order will be communicated to the Learned Sole Arbitrator by the Advocates for the Petitioner within a period of one week from the date of upload of this order. The Petitioner shall provide the contact and communication particulars of the parties to the Arbitral Tribunal along with a copy of this Order;

C) The Learned Sole Arbitrator is requested to forward the statutory Statement of Disclosure under Section 11(8) read with Section 12(1) of the Act to the parties

within a period of two weeks from receipt of a copy of this Order;

- D) The parties shall appear before the Learned Sole Arbitrator on such date and at such place as indicated, to obtain appropriate directions with regard to conduct of the arbitration including fixing a schedule for pleadings, examination of witnesses, if any, schedule of hearings etc. At such meeting, the parties shall provide a valid and functional email address along with mobile and landline numbers of the respective Advocates of the parties to the Arbitral Tribunal. Communications to such email addresses shall constitute valid service of correspondence in connection with the arbitration;
- E) All arbitral costs and fees of the Arbitral Tribunal shall be borne by the parties equally in the first instance, and shall be subject to any final Award that may be passed by the Tribunal in relation to costs.

13. Needless to say, the provisions of Section 16 would in any case be available to the Respondents, should they desire to make out a case about the arbitral tribunal lacking jurisdiction on any specific facet

of the matter, the Section 11 Court has to confine its jurisdiction to examining the existence of an arbitration agreement, and therefore, this Petition being finally *disposed of* in the aforesaid terms.

14. All actions required to be taken pursuant to this order shall be taken upon receipt of a downloaded copy as available on this Court's website.

[SOMASEKHAR SUNDARESAN, J.]