

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS COMMERCIAL DIVISION

COMMERCIAL ARBITRATION APPLICATION NO. 82 OF 2024

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Aruna Nilesh Shah ... Applicant
Vs. .. Respondents
Inter Globe Services & Ors.

WITH
SUIT NO. 852 OF 2016
WITH
INTERIM APPLICATION NO. 4903 OF 2022
IN
SUIT NO. 852 OF 2016

Aruna Nilesh Shah ... Petitioner
Vs. ... Respondents
Motiben Mulchand Shah & Ors.

Mr. Vishal Kanade a/w. *Mr. Rubin Vakil, Ms. Sonam Mhatre and Mr. Amit Mishra i/b Dhaval Vussonji & Associates, for Petitioner.*

Mr. Chetan Kapadia, Senior Advocate a/w. *Mr. Rahul Sarda, Mr. S.H. Merchant, Rihal Kazi, Guru Shanmugam and Ms. Zainab Tinwala i/b M & M Legal Ventures, for Respondents in CARAP-82-2024 and Applicants in both IAs.*

CORAM : SOMASEKHAR SUNDARESAN, J.

Date : September 29, 2025

Judgment:

Context and Factual Background:

1. Commercial Arbitration Application No. 82 of 2024 (“**Section 11 Application**”) is an application filed by Aruna Nilesh Shah (“**Aruna**”) under

Section 11 of the Arbitration and Conciliation Act, 1996 (“***the Act***”), seeking reference to arbitration of all disputes and differences between the parties in connection with a Partnership Deed dated April 1, 1988 (“***Partnership Deed***”) that governs a partnership firm called Inter Globe Services (“***Inter Globe***”).

2. Aruna’s father Mr. Mulchand Anantji Shah (“***Mulchand***”) was a partner of Inter Globe until his demise on August 26, 2013. Suit No. 852 of 2016 (“***Suit 852***”) had been filed by Aruna in relation to disputes and differences with other family members and claimants to Mulchand’s estate. Inter Globe and its other partners too were parties and defendants in Suit 852, which came to be disposed of by execution of Consent Terms dated May 2, 2022 (“***Consent Terms***”).

3. Interim Application No. 4903 of 2022 (“***IA 4903***”) is an application filed in the disposed-of Suit 852, seeking a declaration that the term “*mutually agreed amount*”, referred to in the Consent Terms being payable by Inter Globe to Aruna, is Rs. ~11.11 Crores. IA 4903 also seeks an injunction against initiation of any arbitration between the parties.

4. Interim Application No. 2996 of 2023 (“***IA 2996***”) is an Interim Application in IA 4903 seeking to lead evidence by two witnesses, namely Mr. Nayan Shah and Mr. Paresh Haria, the cousin and uncle of Aruna, in support of the reliefs sought in IA 4903.

Analysis and Findings:

5. I have heard, at length, Mr. Chetan Kapadia, Learned Senior Advocate on behalf of Inter Globe and its partners, and Mr. Vishal Kanade, Learned Advocate on behalf of Aruna. With their assistance I have examined the record.

6. The issues involved in both the proceedings – the Section 11 Application and in IA 4903 – are the same, namely, to examine if there exists an arbitration agreement and to see if on the face of the record, the disputes and differences sought to be referred to arbitration already stand settled in terms of the Consent Terms.

7. Inter Globe had been first constituted on November 11, 1974 and eventually was governed by the Partnership Deed. The existence of the arbitration agreement is not in dispute. 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.

8. Mulchand passed away intestate. In Suit 852, Aruna raised disputes and differences within her family in relation to their succession to Mulchand's rights and interests in Inter Globe's capital, goodwill and assets ("***Suit Subject***") under the Hindu Succession Act, 1956. Aruna's mother and siblings were Defendant Nos. 1 to 3 in Suit 852. Inter Globe, the firm

governed by the Partnership Deed was Defendant No. 4, while Defendant Nos. 5 to 8 were the other partners of Inter Globe.

9. A Mediator came to be appointed on September 29, 2017 and the parties eventually reached a resolution by which Aruna accepted a one-time settlement of being paid Rs. 3.6 Crores to discharge her mother and siblings, and also accepted the assignment of all rights, title and interest in the Suit Subject from her mother and siblings. This was to be a full and final settlement of all the claims due and disputes raised by Aruna against her mother and siblings, which led to the execution of the Consent Terms.

10. Under the Consent Terms, Defendant No. 2, Shailesh Mulchand Shah (“**Shailesh**”), i.e., Aruna’s brother, would pay Aruna a lumpsum amount of Rs.3.6 crores, to discharge claims against himself, Defendant No. 1 Motiben Mulchand Shah (“**Mother**”) and Defendant No. 3 Ritesh Mulchand Shah (“**Ritesh**”), another sibling in Suit 852. It is seen from the Consent Terms that the parties being discharged in the course of the Consent Terms were Defendant Nos. 1, 2, 3 and 8, namely the Mother, Shailesh, Ritesh and M/s Trans Atlantic Traders. All the disputes and differences that have been settled in terms of the Consent Terms were essentially disputes between Aruna and the aforesaid four parties.

11. Inter Globe was only one part of Mulchand's estate. Aruna was authorized irrevocably under the Consent Terms to pursue any share of Mulchand in Inter Globe and towards this end, an irrevocable power of attorney was granted by the Mother, Shailesh and Ritesh in favour of Aruna.

12. Aruna also agreed in the Consent Terms that upon receipt of a "*mutually agreed amount*" payable by Inter Globe, Inter Globe and its other partners would stand released and discharged in respect of Mulchand's share in the Suit Subject. The Consent Terms record that upon payment of the "*mutually agreed amount*" payable by Inter Globe to Aruna, the Suit 852 would be disposed of insofar as it relates to Defendant Nos. 4 to 7 who are essentially the Applicants in IA 4903. The Consent Terms also record that upon failure of the "*mutually agreed amount*", Aruna would be entitled to take such steps as are available in law. It is the term "*mutually agreed amount*" that is the subject matter of the current controversy between the parties – now, Aruna on the one side and Inter Globe and its partners on the other.

13. The Consent Terms came to be placed before and approved by a Learned Single Judge of this Court by an order dated May 2, 2022. An escrow agent came to be appointed in terms of the Consent Terms to hold the

various documents and release them among Aruna, the Mother, Shailesh and Ritesh, in accordance with the terms agreed by the parties.

14. The order dated May 2, 2022 specifically deals with the role of Inter Globe and its other partners. The order states that the Consent Terms have been executed by and on behalf of Inter Globe and its partners and records the fact that the Consent Terms stand converted into an order and decree, thereby disposing of Suit 852. The matter was kept for reporting compliance. On June 15, 2022, when the matter was taken up to examine the compliance with the Consent Terms, it was explicitly recorded that Aruna and Inter Globe and its other partners had not yet arrived at the mutually agreed amount referred to in the Consent Terms.

15. Aruna's Advocate had requested the Learned Single Judge to consider taking up the matter in Chambers on any date to try and see if the disputes between Aruna and Inter Globe and its other partners could be worked out without the need to pursue further legal remedies. The Advocate for Inter Globe and the other partners agreed to the suggestion of conferring in Chambers of the Learned Single Judge to explore a potential resolution.

16. It is evident that the disputes and differences that form subject matter of these proceedings relate to what is the amount to which Aruna is entitled from Inter Globe being the person solely authorised and entitled to

receive Mulchand's share from Inter Globe. Indeed, the subject matter of Suit 852 was the *inter se* dispute among Aruna, the Mother, Shailesh and Ritesh as to who would be entitled to Mulchand's share from Inter Globe. That dispute was settled by way of the Consent Terms. The only facet in the Consent Terms that involves Inter Globe and its other partners is that upon payment of the mutually agreed sum to Aruna, Inter Globe and its partners would stand discharged.

17. Disputes and differences subsist about what that mutually agreed sum is. The Consent Terms record that if the payment of the mutually agreed sum is not made, Aruna may have recourse to other legal remedies. The subject matter of the dispute and differences is what the firm has to pay on account of its deceased partner. The dispute is about accounts of the firm and the value of the goodwill of Inter Globe and Mulchand's estate's share in such goodwill. Mr. Kapadia would point to contemporaneous accounting entries and the revision to the value of assets and the enhanced amount payable to Mulchand, which is pitched at Rs. ~11.11 crores. The basis of such computation is disputed on behalf of Aruna. This would fall squarely in the domain of the arbitration proceedings since this is a dispute relating to the Partnership Deed, which unequivocally contains an arbitration clause.

18. The fact the disputes between Aruna and her Mother and siblings was the subject matter of Suit 852 and that such disputes had been settled, and also the fact that the mutually agreed amount had remained unresolved when the matter was kept for reporting compliance, is also writ large from the record. This is why Aruna's Advocate had suggested a meeting in the Chambers of the Learned Single Judge. If the mutually agreed amount had been finally determined and there had been no scope for controversy, there would have been no reason for the Learned Advocate for Inter Globe to be agreeable to a hearing in Chambers to examine a resolution.

19. The unresolved disputes ought to be adjudicated upon and resolved by arbitration. Suit 852, which primarily dealt with the *inter se* disputes within Aruna's family, has been finally disposed of. There is no scope for an anti-arbitration injunction being passed in an Interim Application filed in the disposed of Suit 852 in relation to disputes between Aruna and Inter Globe. The Consent Terms envisage resorting to legal remedies, and in view of the arbitration agreement in the Partnership Deed, the legal remedy available is the arbitration proceedings between Aruna, who is now entirely entitled to the right, title and interest of the late Mulchand in Inter Globe, and Inter Globe and its partners under the Partnership Deed.

20. Notwithstanding the persuasive skills of Mr. Kapadia who would indicate that evidence should be led in these proceedings by the two witnesses sought to be introduced, in my opinion, at the highest, this would be a case of having to show to the arbitral tribunal that disputes and differences ought not to exist. Mr. Kanade is right in his submission that at best, Inter Globe's contention is one of there having been 'accord and satisfaction', which on the face of the record is not borne out in view of the claim of satisfaction being based on an oral understanding. That the amount of Rs. ~11.11 Crores, which is not agreed to in writing but is contended to have been agreed orally, for which evidence is sought to be led through the two proposed witnesses, is a matter that ought to be proved before the arbitral tribunal and not in IA 4903, in the disposed-of Suit 852.

21. On the face of the record, the Consent Terms record the clear and final settlement of disputes between Aruna and the Mother and siblings, and for Inter Globe to be considered as having settled all disputes with Aruna, one would need firm evidence of an amount of settlement being mutually agreed and being discharged. Contemporaneous developments relating to the very same Consent Terms would indicate that Aruna and Inter Globe did not have closure on the matter and even suggested and agreed to have the matter examined in the Chambers of the Learned Single Judge to explore closure.

22. The very same witnesses as covered by IA 2996 could always lead evidence before the arbitral tribunal and demonstrate that they had reached agreement on the amount due to Mulchand from Inter Globe.

23. Therefore, in my opinion, the Section 11 Application is meritorious and deserves to be allowed by appointing an Arbitral Tribunal, which is done in the following terms:-

A] Justice (Retd.) K. R. Shriram , Former Chief Justice of Madras and Rajasthan High Courts and 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. The contact details of the Arbitrator are as under :

Office Address : Suite 1515, 15th Floor, Maker Chambers, V. Jamnalal Bajaj Marg, Nariman Point, Mumbai 400 021.
Tel No. 022-22852790
Email : krshriram@gmail.com

B] A copy of this Order will be communicated to the Learned Sole Arbitrator by the Advocates for the Applicant within a period of one week from the date of upload of this order. The Applicant 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.

24. The Section 11 Application is ***finally disposed of*** in the aforesaid terms. Therefore, IA 4903 and IA 2996 are also ***finally disposed of*** without grant of the reliefs sought therein.

25. Needless to say, nothing contained in this order is an expression of an opinion on merits of the matter or the relative strength of the parties. All issues on merits are expressly kept open to be agitated before the arbitral tribunal appointed hereby.

26. 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.]