

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
COMMERCIAL ARBITRATION PETITION NO. 469 of 2020
WITH
COMMERCIAL ARBITRATION PETITION NO. 811 OF 2024

Abdul Rahim Khalilur Rehman .. Petitioner
Versus
Abdul Karim Khalilur Rehman and .. Respondents
ors

...

Mr.Mohammad Ashraf a/w Shiraj Salelkar and Deepakar Livingston and Hamza Nair i/b Lexicon Law Partners for the Petitioner in CARBP No.469/2020.

Mr.Alankar Kirpekar a/w Mr.Deepakar Livingston and Ayush Tiwari i/b Shekhar Bhagat for the Petitioner in CARBP No.811/2024.

Mr.Vishnu Wani i/b Abdul Barikhan for Respondent Nos.1 and 2 in both matters.

Mr.Swayam Chopda, OSD to Court Receiver, present.

Mr. for the applicant.

CORAM: BHARATI DANGRE, J.
DATED : 28th NOVEMBER, 2025

P.C:-

1 The two Petitions filed under Section 9 of the Arbitration and Conciliation Act, 1996 revolve around the Partnership Deed dated 06/06/2002, which was dissolved in 2017 and the dispute between the parties arose upon liquidation of its assets which include the Trademark 'Moulvi'.

Upon the dispute being made over to the Arbitral Tribunal, on 27/08/2021 a consent order was passed ,

recording that from 21/08/2019 none of the parties to the arbitral proceedings shall carry on any business from anywhere on behalf of the firm M/s.Khalil Moulvi & Sons and none of the Parties shall deal with any of the assets of the firm including Trademark of the firm. Apart from this, it was also agreed that 'the Parties shall not enter into any arrangement, agreement or understanding on behalf of the firm or in respect any of its assets'.

In the wake of the consent order, it is canvassed before me that the Parties were prohibited from dealing with the assets of the partnership firm M/s. Khalik Moulvi & Sons and this included even its Trademark. I am informed that the arbitral proceedings are still pending.

2 CARBP No.811/2024 is filed with a specific direction of restraining Respondent No.1, either himself or his Partners, Directors, licensees/franchises etc. and Respondent Nos.3 and 4 by an order of injunction from using the assets of the firm which include the wordmark 'Moulvi', device mark/logo 'Moulvi' as well as the device mark/logo 'Moulvi' containing the tag line/phrase "Since 1921", and any variant of the Trademark/mark/logo and using any other mark which is deceptively similar to the mar/logo of the firm in any manner.

3 The learned counsel representing the Petitioner has invited my attention to a Pamphlet, which has declared a grant opening of one of the showroom by Respondent No.3 in Muskat,Oman, its opening being scheduled on 14/11/2025 and

such act on part of Respondent No.3 is sought to be prohibited by the Petitioner.

Since I have noted that the Arbitral Proceedings between the Petitioner and Respondent Nos.1 and 2 are already pending before the Arbitral Tribunal and as far as Respondent Nos.3 and 4 are concerned, they are acting through Respondent No.1 and, therefore, according to the learned counsel for the Petitioner it is necessary to lift/tear corporate veil of Respondent Nos.3 and 4 which are alleged to be the alter ego of Respondent No.1.

The apprehension expressed is that Respondent Nos.3 and 4 cannot be bound by the arbitral proceedings before the Court, but on being pointed out that if this very principle is sought to be invoked in the arbitral proceedings by moving out an appropriate application, in my view the learned Arbitrator, in the wake of the law laid down by the Apex Court in ***Cox & Kings Limited vs. SAP India Pvt. Ltd. & Anr.***¹, will be in a position to discern the real identity of Respondent Nos.3 and 4 and whether they are alter ego of Respondent NO.1 and in such case, they shall also be bound by the proceedings of the Arbitration and Award to be declared by the learned Arbitrator.

4. Since I am already informed that an Advocate of this Court is acting as an Arbitrator, by conferring liberty upon the Petitioner to approach the learned Arbitrator by moving an appropriate Application, I permit the Section 9 Petitions filed before this Court to be converted into Section 17 Application, for seeking necessary reliefs.

¹ (2025) 1 SCC 611

Needless to state that if required the learned Arbitrator shall permit the Parties to file additional pleadings specifically involving the point of acting under/through.

In the wake of above, both the Petitions stand disposed off.

(BHARATI DANGRE, J)