
IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

ARBITRATION PETITION NO.296 OF 2024

Asha Dineshchandra Bheda & Anr.Petitioners

Versus

Rajesh Talakshi Bheda & Anr.Respondents

Mr. Kunal R. Maskar, *Advocate for the Petitioner.*

Mr. Farhan Khan a/w. *Smita Durve & Yukta Palve i/b. Yogini Gada, Advocates for Respondent No.1.*

Mr. Simil Purohit, **Senior Advocate** a/w. *Vishal Raman & Bhairavi Pathak i/b. Parisha Shah, Advocate for Respondent No.2.*

CORAM: SOMASEKHAR SUNDARESAN, J.

DATE : JUNE 26, 2025

ORDER :

1. This Petition has been filed under Section 9 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 Partnership Agreement dated May 29, 2000. The arbitration agreement is contained in Clause 20 (found at Page 60 of the Petition) of the Agreement. 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.

2. Having heard the parties for some time, in my view it would be appropriate to dispose of this Petition by converting it into an Application under Section 17 of the Act, taking into account the fact that the Petition has been lying in Court for close to a year.

3. It is admitted that Respondent No.1 is a cousin of Petitioner No.1. Petitioner No.1 and Petitioner No.2 were partners of a firm called Shah Nanji Khimji. Upon the demise of Petitioner No.1's father, Petitioner No.1 was admitted into firm on the same terms on August 01, 2021.

4. Learned Counsel for Respondent No.1 fairly states that he has no objection to proceeding to arbitration forthwith with the Petitioners.

5. The key issue is about whether Respondent No.2 can be roped into arbitration, not being a party to the arbitration agreement contained in the Partnership Deed dated May 29, 2000, as supplemented thereafter. It is the case of the Petitioners that Respondent No.2 is the sibling of Respondent No.1 and according to Learned Counsel for the Petitioners, the *de facto* running of the Partnership Firm had been handed over by Respondent No.1 to Respondent No.2. He would rely upon a bill dated January 7, 2024

(Exh. 'A' Page 31 of the Rejoinder dated April 17, 2025) to show that Respondent No.2 (with his mobile number too recorded) has raised bills in the name of the very same partnership firm. The upshot appears to be that Respondent No.2 is a Partner by holding out. All these are facets that the Petitioner needs to satisfy the Learned Arbitral Tribunal to rope in Respondent No.2. A prima facie case has been made out for the Petitioner to be given leave to seek the Learned Arbitral Tribunal's liberty to make Respondent No. 2 a party to the proceedings.

6. Respondent No.1 submits that the firm is currently carrying out no business. Besides, he would contend that multiple members of the larger family can be said to be engaged in the same business. The suggestion through these submissions is that the business carried out by Respondent No.2 need not be considered to be the business carried out by the firm, which is yet to be dissolved. This too is a matter to demonstrate the Learned Arbitral Tribunal.

7. The Petitioners are given liberty to apply to the Learned Arbitral Tribunal invoking known principles for roping in third party to the arbitration agreement into arbitration proceedings. The Arbitral Tribunal shall consider the same and take an appropriate decision.

8. In these circumstances, this Petition is *finally disposed of* by referring all disputes and differences covered by this proceeding to arbitration by the Learned Sole Arbitrator hereby appointed in the following terms:-

A] Ms. Vinodini Srinivasan, a Learned Advocate 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 Learned Arbitrator are set out below:-

Address : 11C, Examiner Press Building,
Dalal Street, Fort, 400001.

Email Id : : vinodinisrinivasan@gmail.com

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 today. 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 and;

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.

9. 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.

10. 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.]