
**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS COMMERCIAL DIVISION
COMMERCIAL ARBITRATION PETITION NO. 59 OF 2025**

Sadiqhusain Shamsuddin Pachorawala & Ors ...Petitioners

Versus

Shabbir Shamsuddin Pachorawala & Ors ...Respondents

Mr. Mufaddal S. P. *for the Petitioner No.2. present in person.*

Mr. Sunil Gangan, *a/w S.M. Seegarla, Siddharth Shibu, i/b RMG Law Associates, for Respondent No.1.*

CORAM : SOMASEKHAR SUNDARESAN, J.

DATE : JUNE 30, 2025

ORDER :

1. Having heard the Learned Counsel for the parties, it would be appropriate to substitute the Learned Sole Arbitrator, who admittedly is today *de jure* unable to act as an arbitrator owing to his elevation as a Judge.

2. In these circumstances, this order would substitute the Learned Sole Arbitrator appointed pursuant to the order dated November 26, 2019 in the following terms:-

A) Mr. Gulnar Mistry, an 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;

Office address:

101, 1st floor, infinity (formerly known as Ramnini Fort), Cawasji Patel Street,

Bombay 400 001.

Email: gm@mistrychambers.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 the date on which this order is uploaded on the website of this Court. 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.

3. All the other contents of the said order shall remain unchanged, and the Learned sole arbitrator appointed hereby is requested to review the same, so that appropriate directions may be passed, including on the fees chargeable in the matter.

4. It is also seen that, that the earlier order *appointing the Learned Sole Arbitrator had been* taken up by way of a Special Leave Petition before the Supreme Court and was eventually dismissed on July 30, 2024 after an initial stay of that order dated November 26, 2019. Consequently, the arbitration is required to commence at the earliest, and the Learned Sole Arbitrator is requested to schedule dates and issue directions, bearing in mind the length of time that has already gone by without the arbitration even having commenced.

5. In a Section 9 Petition filed in connection with the same disputes and differences (Arbitration Petition No.158 of 2017), a Learned Single Judge of this Court had directed that the amount lying with the Court Receiver shall not be parted with until further orders. The Section 9 Petition being Arbitration Petition (L) No.158 of 2017 had already been converted into an Application under Section 17 of the Act for consideration by the arbitral tribunal. The Learned Arbitral Tribunal

is requested to examine those proceedings as well and issue appropriate directions. By an order dated February 15, 2018 the amounts lying with the Court Receiver, who came to be appointed in the Section 9 Petition have continued to remain lying in Court. There may be significant accruals over the interregnum. The Learned Arbitral Tribunal may issue such directions as considered appropriate, including any partial release to the parties to enable them to pay the arbitral fees and/or incur any other expenses. Since this is a case where seven years have gone by after the order directing that the money lying with the Court Receiver would not be parted with, this facet of the matter is also meant for urgent consideration by the Learned Arbitral Tribunal appointed hereby.

6. Petitioner No.2 is the son of Petitioner No.1- the original Applicant in the Section 11 proceeding, which was disposed of by the Learned Single Judge earlier. Petitioner No.2 is now stated to be a successor to the interests Petitioner No.1 in the partnership firm. Consequently, as and when the arbitral proceedings commence pursuant to this order, Petitioner No.2 and Petitioner No.1 would both be parties to the arbitral proceedings.

7. With the aforesaid observations and the substitution of the Learned arbitrator, this Petition is *finally disposed of*.

8. The Learned Sole Arbitrator is also requested to act as an *amiable compositeur* in the first instance and see whether, before formal arbitration is commenced at this distance of time, any amicable resolution would be possible. Needless to say, should no such resolution be possible within thirty days of entering reference, the Learned Arbitral Tribunal may conduct formal arbitral proceedings.

9. 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.]