
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
ARBITRATION PETITION NO. 85 OF 2025

Arcadia Shares And Stocks Brokers Pvt Ltd ...Petitioner

Versus

Gaurang Ajith Sheth ...Respondent

Mr. Mayur Khandeparkar, *a/w Gauraj Shah, Priyanka Sinha, Bhavya Shah, i/b A&P Partners, for the Petitioner.*

Mr. Nirman Sharma, *Akshay Doctor i/b Dharam & Co. for Respondent.*

CORAM : SOMASEKHAR SUNDARESAN, J.

DATE : APRIL 4, 2025

PC :

1. The dispute between the parties relate, among others, to two agreements. One is a Loan Agreement dated August 29, 2013 and the other is a Shareholders Agreement of the same date. Each of these agreements contains an arbitration agreement. One of the agreements contains a stipulation that the arbitrator must be a practicing Advocate, whereas the other agreement is silent on stipulating the qualification for the Arbitrator.

2. It is apparent from the record that pursuant to the Shareholders Agreement, that Petitioner Nos.2 and 3 were appointed to

the Board of Directors of Respondent No.2-Company, which is but in accordance with Clause 3 of the Shareholders Agreement. In terms of the said clause, Petitioner Nos.2 and 3 were meant to be Directors of the Board, while Respondent No.5 was meant to be an independent Director without participation in the day-to-day management of the affairs of Respondent No.2-Company. However, Respondent No. 5 was meant to be a non-retiring and non-rotational Director. In other words this Respondent could never be removed from the Board of Respondent No.2-Company.

3. The Shareholders Agreement also contains a provision stipulating the need for unanimous consent of all the Shareholders (at the general meeting) and their nominee directors (in board meetings) to pass a resolution in respect of seven stipulated matters.

4. The grievance of the Petitioners simply is that despite Petitioner Nos.2 and 3 having been appointed to the board, their directorship on the board is not being reflected in the records of the Register of Companies (“**ROC**”). Towards this end, they seek interim relief in terms of getting control over the login credentials of Respondent No.2 to enable compliance and demonstrate their directorship on the board.

5. The aforesaid prayers are strongly resisted on behalf of the Respondents, among others, in reliance upon an order dated October 12, 2023 passed by a Learned Single Judge of this Court in Suit (L) No.4756 of 2023. It is apparent that the suit came to be dismissed for non-removal of office objections on December 12, 2023. It appears that unaware of the dismissal, an Interim Application had also been filed by the Petitioners seeking certain reliefs, but once it was realised that the suit itself was not on the docket of this Court, the Interim Application was not dealt with. That application too remains pending in the Registry, subject of course, to the fate of the dismissed suit.

6. Learned Counsel for the Respondents submits that a restoration application for the suit is scheduled for April 21, 2025 and he would submit that considering that the jurisdiction under Section 9 is one based on equity, it would be appropriate to stand over this matter to a date after April 21, 2025, to give a fair chance to the potential restoration, so that the benefits flowing from the order passed by a Learned Single Judge of this Court in the suit could stand restored, which would have a bearing on the adjudication of this Petition.

7. In these circumstances, having heard the parties and to adjust equities, and to protect the competing interests of the parties, as indeed the subject matter of the arbitration, it would be appropriate to issue a limited direction to the Respondents i.e. to ensure that the records of Respondent No.2 with the Registrar of Companies (“**ROC**”) accurately reflects the decision and the outcomes taken in the general meeting held on October 30, 2023 i.e. the appointment of Petitioner Nos.2 and 3 to the Board Directors of Respondent No.2 and removal of Respondent No. 1 from the Board of Directors of Respondent No.2. Such depiction would be without prejudice to the rights and contentions of the parties. The records of the ROC must reflect the position obtaining today, and it would not be open to any party to take the law in its own hands and refrain from complying with basic requirements of company law.

8. Learned Counsel for the Respondents fairly states that such reflection of the records would be effected without the need to pass an order and without prejudice to the contentions about control over Respondent No. 2. Such update to the ROC record shall be effected ***no later than April 7, 2025.***

9. List for reporting compliance on ***April 8, 2025*** on the ***Supplementary Board***.

10. Subject to such compliance being made, the matter would then be stood over to an appropriate date after April 21, 2025 to enable a fair chance for the restoration of the dismissed suit. Appropriate directions in disposal of this Petition shall be considered on such future date of listing.

11. It is clarified that the updation of ROC records would not prejudice the rights of the Respondents in their challenge to the decisions taken at the general meeting on October 30, 2023.

12. 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.]