
IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

COMMERCIAL ARBITRATION APPLICATION NO.408 OF 2025

Rahim Abdul Sattar Qureshi & Anr.

....Applicants

Versus

Munnibegum Fidahussain Pathan & Ors.

....Respondents

Mr. Umair A. Ansari *a/w. Mohsin H. Khan, Advocates for Applicants.*

Mr. Uzair Kazi *a/w. Ms Dhanashree Hublikar i/b. YMK Legal, Advocates for Respondents.*

CORAM: SOMASEKHAR SUNDARESAN, J.

DATE : SEPTEMBER 22, 2025

ORDER :

1. This Application has been filed under Section 11 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 Deed dated September 29, 2016. The arbitration agreement is contained in Clause 19 (found at Page 27 of the Application) 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. The existence of arbitration is writ large on the face of the record. Learned Counsel for the Respondents has entered appearance and accepts notice and indicates that the Applicant is barred by limitation for having wasted time until the Criminal Law Enforcement Authorities refused to entertain complaints. It is contended that they ought to have forthwith come to the Court and they have wasted even further time since 2023.

3. The facet of limitation in pursuant of a cause of action is a matter that falls squarely in the domain of the Arbitral Tribunal. The Respondents shall be at liberty to raise such objections including the right to file a counter-claim before the Arbitral Tribunal for appropriate consideration. It is apparent that the Applicant and the Respondents are all signatories to the arbitration agreement.

4. In these circumstances, without expressing any opinion on merits and leaving all contentions open, all rights available to the parties in law, the Arbitral Tribunal is hereby appointed in the following terms:-

A] Mr. Dushyant Purekar (dushyant@purekar.com), 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;

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.

5. Both the Section 11 Application and Section 9 Petition are hereby *finally disposed of*.

6. 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.

7. 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.]