



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

ARBITRATION APPEAL NO.97/2025

M/s Adity Rice Mill and others Vs. Jayprakash Nathmal Bhattad

Office Notes, Office Memoranda of Coram, Appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders
---	---------------------------

Mr. Alok Daga, Advocate for Appellants

CORAM: NIVEDITA P. MEHTA, J.

DATED : 8th DECEMBER, 2025

1. Heard.

2. ADMIT.

3. The record reflects that the respondent has been duly served. Despite service, no one has marked appearance on behalf of the respondent. By order dated 02.12.2025, this Court granted a last opportunity to the respondent to appear; however, no appearance was entered. Consequently, this Court was constrained to proceed ex parte against the respondent. Even today, none appears for the respondent.

4. The present appeal calls into question the order dated 17.02.2025 passed by the learned Civil Judge, Junior Division, Amgaon, whereby the application preferred by the appellants under Section 8 of the Arbitration and Conciliation Act, 1996, seeking reference of the dispute to arbitration, was rejected.

5. The learned counsel for the appellants submits that the respondent instituted Regular Civil Suit No. 47/2018 seeking a declaration that he be recognized as a deemed partner of appellant No.1 firm in terms of the partnership deed dated 01.07.1991. It is submitted that the respondent and the appellants were partners of the said firm, and that appellant Nos. 2 and 5 executed a Retirement-cum-Dissolution Deed dated 01.04.2006. The respondent, being dissatisfied with the conditions of the said deed, initiated the civil suit.

6. It is the contention of the appellants that the respondent's claim of being a deemed partner is rooted in the partnership deed dated 01.07.1991, and that Clause 20 of the said deed contains a clear arbitration agreement. Clause 20 stipulates as under:

“That all the disputes in connection with partnership arising between the partners to this deed shall be referred to Arbitrator as per Arbitration Act, 1949.”

Accordingly, it is argued that once an arbitration clause exists and the dispute arises out of the partnership relationship, the Civil Court is mandatorily required to refer the parties to arbitration under Section 8 of the Arbitration and Conciliation Act, 1996.

7. Upon consideration of the submissions and perusal of the material on record, this Court finds that Clause 20 of the partnership deed unequivocally

provides for reference of all disputes arising between the partners to arbitration. The relief sought by the respondent in RCS No. 47/2018, namely, a declaration that he is a deemed partner of appellant No.1, firm, directly stems from the rights and obligations under the partnership deed. The core issue therefore pertains to a dispute arising *inter se* the partners and is squarely within the scope of the arbitration clause.

8. Section 8 of the Arbitration and Conciliation Act, 1996 mandates that if an action is brought before a judicial authority in a matter which is the subject of an arbitration agreement, the court is obliged to refer the parties to arbitration, provided that the party seeking reference applies before submitting its first statement on the substance of the dispute. The language of Section 8 is peremptory and leaves no discretion with the civil court where a valid arbitration clause exists and the subject matter of the dispute falls within its ambit.

In the present case, the learned trial Court failed to appreciate the mandatory nature of Section 8 and erroneously proceeded to entertain the suit, notwithstanding the existence of a binding arbitration clause governing disputes between partners. The impugned order, therefore, suffers from a material irregularity and is unsustainable in law.

9. In view of the foregoing discussion and legal position, the appeal deserves to be and is hereby allowed.

The order dated 17.02.2025 passed by the Civil Judge, Junior Division, Amgaon in Regular Civil Suit No. 47/2018 is quashed and set aside. Consequently, the application filed by the appellants under Section 8 of the Arbitration and Conciliation Act, 1996 stands allowed. The parties shall be referred to arbitration in terms of Clause 20 of the partnership deed dated 01.07.1991.

(NIVEDITA P. MEHTA, J.)

MP Deshpande