$~85

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ O.M.P.(I) 9/2025

SH. ABDUL MAJEED & ANR ......Petitioners

Through: Mr. Sandeep Sethi & Mr. Jayant Mehta, Sr. Advs. with Mr. Simran Mehta, Mr. Bharat Bhushan Sharma & Mr. Anirudh Vats, Advs. for P-1.
Ms. Shalini Sati Prasad, Mr. Pawan R. Upadhyay, Mr. Varun Sharma & Ms. Shalini Kapoor, Advs. for P-2.

versus

SH. HAMMAD AHMED & ORS. .....Respondent

Through: Mr. Sudhir Nandrajog, Sr. Adv. with Mr. Shreyans Singhvi, Ms. Tanuja Singh, Ms. Akansha Agrawal & Ms. Ankita Singh, Advs. for R-1.
Mr. Kailash Vasdev, Sr. Adv. with Mr. Bobby Lau, Ms. Neoma Vasdev, Mr. Mohd. Aslam Khan & Mr. Umrao Singh Rawat, Advs. for R-2 & 3.

CORAM:
HON'BLE MR. JUSTICE JASMEET SINGH

<u>O R D E R</u>

% **29.05.2025**

<u>I.A. 14100/2025</u>

1. Exemption is granted subject to all just exceptions.

2. The applicant(s) shall file legible and clearer copies of exempted documents, compliant with practice rules before the next date of hearing.

3. The application is disposed of.

O.M.P.(I) 9/2025

4. This is a petition filed under Section 9 of Arbitration and Conciliation Act, 1996 seeking the following reliefs:

> *"A. Restraining Respondents Nos. 1 & 2, from vesting any assets, or monies of HLI, in any third party, pending the proposed arbitral proceedings.*
>
> *B. Restraining Respondents Nos. 1 & 2 from utilizing the accumulated surplus of HLI, except as expressly authorized by the statement of accumulation, furnished to the Income Tax Department [Document No. 11], pending the proposed arbitral proceedings*."

5. Mr. Sethi, learned Senior counsel for petitioner has drawn my attention to Para Nos.V, VI and VII of the Family Settlement Deed (FSD) dated 22.10.2019 which reads as under:-

> *"V. The Parties are all descended from Late Hakeem Hafiz Abdul Majeed Sahib, who passed away 22nd June, 1922, leaving behind his widow, Mst. Rabea Begum and his two sons, Hakeem Abdul Hameed Sahib and Hakeem Mohd. Said Sahib, who became the co-owners of the business.*
>
> *VI. On 28th August, 1948, Mst. Rabea Begum, Hakeem Abdul Hameed Sahib and Hakeem Mohd. Said Sahib dedicated the business of Hamdard Dawakhana [hereinafter referred to as "the Trust"], to charity, by executing a Trust Deed [hereinafter referred to as the 1948 Deed].*

VII. Mst. Rabea Begum passed away on 5th October, 1949 and her rights in the Trust devolved upon Hakeem Abdul Hameed Sahib and Hakeem Mohd. Said Sahib in equal proportions."

6. He state that in violation of the said clauses, the respondents have made investments of Rs.80 crores in M/s. Religare Commodities Ltd. As a result of which, the petitioners have lost tax exemption.

7. He further submits that Respondent No. 2 is also being issued notices by the Enforcement Directorate for alleged violations of the Prevention of Money Laundering Act (PMLA). He therefore contends that there is a clear breach of Clauses V, VI, and VII of the FSD, and the respondents ought to be restrained by way of an injunction from continuing with such violations.

8. He states that the clauses clearly show that no part of the assets or surplusesis to enure for the personal benefit of the party which is being done by respondent no.2.

9. The same is disputed by Mr. Nandrajog,learned Senior Counsel for the respondents.

10. I have heard learned counsel for the parties.

11. My attention has been drawn to the order dated 20.09.2022 passed in O.M.P. (I) 7/2022, a petition under Section 9 of the Arbitration and Conciliation Act, 1996, between the same parties, wherein the Court made the following observations:-

"2. The FSD deals with various businesses, properties, and institutions run by the family including a charitable society called the Hamdard National Foundation (India) ["HNF"], which is the sponsoring body of the respondent No. 4- Jamia

Hamdard (Deemed University) ["the University"]. Under the aegis of the University, the family runs a medical college by the name of Hamdard Institute of Medical Sciences & Research ["HIMSR"] as a "constituent institution".

3. The FSD deals elaborately with the division of businesses and institutions amongst the HLT Group and the HFI Group. For the present purposes, it is not necessary to set out the arrangements in detail, except to state that the FSD contemplates setting up of two committees for the management of HNF and its institutions. One committee namely the Hamdard Education and Cultural Aid Committee ["HECA"] is placed under the control of the HFI Group and the other committee, Medical Relief and Education Committee ["MREC"] is under the control of the HLT group. Very broadly speaking, the University was to be run as an autonomous institution funded by HECA whereas HIMSR was to be run as an institution under the MREC.

……..

8. In the course of hearing, it appears that the petitioners and respondent Nos. 1 to 3 are ad idem that the FSD requires to be fully implemented in letter and spirit. There is, however, some dispute between them as to the modalities for the implementation of the settlement. As far as the respondent No. 4 is concerned, Mr. Vasdev reiterates that the University remains bound by its resolution dated 03.07.2021 and the observations of the Division Bench in the order dated 22.11.2019 and will continue to *cooperate with the other parties in the implementation of the FSD.*

13. In view of the aforesaid submissions of the parties, the petition is disposed of with the following directions: -

a. With the consent of learned counsel for the petitioners and the respondent Nos. 1, 2 and 3, the disputes between them under the FSD are referred to the arbitration of Hon'ble Mr. Justice Badar Durrez Ahmed,, former Chief Justice of the High Court of Jammu and Kashmir [Tel:-7042205786]. At Mr. Vasdev's request, at this stage the University is not made a party to the arbitral proceedings. However, it is open to the parties to make an application before the learned arbitrator in this regard, if so advised.

b. It is expected that the parties will cooperate with each other in the spirit of the FSD and the resolution of the University. Although the University is not being referred to the arbitration at this stage, Mr. Vasdev states that the University will facilitate the implementation of the directions given by the learned arbitrator in this regard.

c. With this objective, it is further directed as follows: -

i. The computation of the amounts due from the petitioners' group to respondent Nos. 1 to 3 in terms of Clause 25 of the FSD, read with Annexure V thereof, will be placed before the learned arbitrator within two weeks. The *parties may seek necessary direction in this regard from the learned arbitrator, including for the amounts to be deposited with him in escrow.*

ii. Mr. Vasdev states that the documents required to be issued by the University will be issued simultaneously upon deposit of the amount contemplated by Clause 25 of the FSD read with Annexure V therein by the petitioners.

iii. The petitioners will furnish quarterly accounts as directed in paragraph 12 above.

iv. Mr. Nandrajog states that the respondent Nos. 1 to 3 have not interfered, at any stage, in the independent functioning of HIMSR under the MREC. He assures the Court that they will continue to cooperate with the petitioners in maintaining the independent status of HIMSR under the MREC and will not take any steps inconsistent therein.

d. The parties may make their respective claims under the FSD before the learned arbitrator. It is made clear that the parties may also approach the learned arbitrator for further directions under Section 17 of the Act. The directions given in this order are only intended to hold the field until the learned arbitrator has the opportunity to consider the matter and pass further directions, as may be required from time to time. The parties are at liberty to seek modification, variation, or vacation of the orders passed by this Court before the learned *arbitrator.*

e. Learned Senior Counsel for the parties state that the learned arbitrator may be requested to fix his own remuneration in accordance with law."

12. A perusal of the above paras clearly show that the entire disputes with regard to the FSD dated 22.10.2019 and its implementation is already pending before a sole Arbitrator. The parties are also participating before the learned Arbitrator. Hence, to my mind, the petitioners should approach the learned Arbitrator, who is ceased of the matter under Section 17 of the Arbitration and Conciliation Act, 1996.

13. The learned Arbitrator is capable of passing the orders which are being sought to be passed by this court.

14. Since the learned Senior Counsel for the petitioners states that there is urgency in the matter as there is an apprehension of assets being dissipated (denied by the learned Senior Counsels for the respondents), as and when the application under Section 17 of the Arbitration and Conciliation Act, 1996is filed, the learned Arbitrator is directed to dispose it of as expeditiously as possible, preferably within a period of 04 weeks from the date of the application.

15. Nothing has been observed from the merits/ demerits of the case.

16. With these directions, the petition is disposed of.

JASMEET SINGH, J

MAY 29, 2025/pk

Click here to check corrigendum, if any