
**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS COMMERCIAL DIVISION**

COMMERCIAL ARBITRATION APPLICATION NO. 113 OF 2026

**RAHIMTULLAH MAMJIBHAI MEREDIA
AND ANOTHER**

...APPLICANTS

Versus

RAHIM KASAMALI MAREDA AND OTHERS

...RESPONDENTS

Mr. Manoj P. Mhatre, *Advocate for the Applicants.*

Ms. Sanyukta Sinde i/b M/s. Mulani & Co., *Advocate for
Respondent Nos. 1 to 3.*

CORAM : ARUN R. PEDNEKER, J.

DATE : 15th JUNE, 2026.

Per Court :

1. Heard.

2. The present Commercial Arbitration Application is filed under section 11 of the Arbitration and Conciliation Act, 1996 (“**the Act**”) for appointment of an Arbitrator for resolution of disputes as per the Memorandum of Understanding (“**MOU**”) dated 19th September, 2013. The Applicants viz. Rahimtullah Mamjibhai Maredia and Sayedali Mamjibhai Maredia have filed the present Application against the Non-Applicants/Respondents viz. Rahim Kasamali Maredia, Zulfikar Kasamali Maredia and Shaukat Kasamali Maredia (For the sake of convenience, the Applicants are referred to as “the First Party” and the Respondents are referred to as “the Second Party”).

3. The case in brief is that the Applicants and the Respondents are the family members and they have common business and family assets and in terms of the MOU dated 19th September, 2013, the First Party and the Second Party have drawn the MOU for distribution of the family assets, properties and business transactions and the MOU provided for resolution through arbitration and named two

Arbitrators to resolve the said dispute. Clause (f) of the MOU dated 19th September, 2013, for ready reference is noted below :-

“f) In the event of any difference of opinion regarding interpretation of any clause herein or intention underlying the same shall stand referred to the Arbitration of :

1. Mr. Tajdin Hasanali Halani and

2. Mr. Aziz Allaudin Daredia.”

4. Thereafter in the year 2019, further the MOU dated 11th October, 2019 was executed between the family members i.e. one of the members of the First Party viz. Rahimtullah Mamjibhai Maredia and all three members of the Second Party viz. Rahim Kasamali Maredia, Zulfikar Kasamali Maredia and Shaukat Kasamali Maredia, for the same properties of the family. However, the arbitration clause has undergone a modification and clause 15 of the MOU dated 11th October, 2019 provides that Mr. Tajdin Hasanali Halani shall be the Arbitrator. The same is quoted below :-

“15. In the event there are any disputes, difference or question at any time hereafter arises between the parties herein in

respect of the constructions of these presents or concerning anything herein contained or arising out of these presents or as to the rights and liabilities of the parties hereunder shall be referred to a sole Arbitrator Mr. Tajdin Halani, who is mutually appointed by the parties hereto. The Venue of the arbitration shall be Mumbai.”

5. It is also noticed that the original MOU is kept in the possession of Mr. Tajdin Hasanali Halani. Disputes arose between the parties over the family settlement, as such notice under Section 21 of the Act invoking the arbitration clause was issued referring to the MOU dated 19th September, 2013 by the First Party to the Second Party. The Applicants called upon the Non-Applicant to appoint Mr. R. G. Ketkar, retired Judge of the Bombay High Court as an Arbitrator, also calling upon the other side to suggest the name of Arbitrator, if they do not agree to the name suggested by the Applicants. The said notice was replied by the Respondents on 21st August, 2024.

6. In the reply it is stated that as per the MOU dated 11th October, 2019, it is agreed between the parties that in the event

there are any disputes, difference or question arises between them in respect of their rights and liabilities, the same be referred to sole Arbitrator Mr. Tajdin Hasanali Halani, who is mutually appointed by both the parties and the parties are bound by the conditions of said MOU dated 11th October, 2019 and that, the Applicants have failed to show sufficient reason/cause as to why Mr. Tajdin Hasanali Halani should not be appointed as a sole Arbitrator as per the MOU dated 11th October, 2019. In the written response, the Respondents refused to accept the names suggested by the Applicants and suggested the appointment of Mr. Tajdin Hasanali Halani as the sole Arbitrator. The Applicants were not willing to appoint Mr. Tajdin Hasanali Halani as an Arbitrator, as such approached this Court by filing an Application under Section 11 of the Act for appointment of the Arbitrator.

7. Learned counsel for the Applicants submits that in terms of the MOU dated 19th September, 2013, two Arbitrators were to be appointed in the event of any dispute arises. As far as the MOU dated 11th October, 2019 is concerned, only one name of Arbitrator is

suggested. However, one of the Applicants is not party to the 2019 MOU, while the 2013 MOU is agreed to by all the parties.

8. It is submitted that the Applicants do not have faith in the named Arbitrator in 2019 MOU. It is submitted that Mr. Tajdin Hasanali Halani was associated with the Respondents for certain business transactions, whose name is suggested as an Arbitrator and at present there are disputes and differences between the Applicants and the said Mr. Tajdin Hasanali Halani.

9. *Per contra*, learned counsel appearing for the Respondents submits that the named Arbitrator has to be appointed and the name of Arbitrator can not be ordinarily substituted. It is submitted that the MOU dated 19th September, 2013 had the names of three Arbitrators, as per the copy of the MOU available with the Respondents.

10. Learned counsel for the Respondents relied upon the observations made by the Hon'ble Supreme Court in the case of ***Indian Oil Corporation Limited and Others v/s. Raja Transport***

Private Limited¹, to contend that the named Arbitrator is required to be appointed.

11. Having considered the rival submissions, it is to be noted that the first MOU dated 19th September, 2013 specifies two Arbitrators. As regards the MOU dated 11th October, 2019, only Mr. Tajdin Hasanali Halani is agreed to be appointed as an Arbitrator. However, in the second MOU of 2019 one of the Applicants is not the party.

12. Considering that one of the Applicants is not the party to 2019 MOU, this Court can not proceed to appoint Mr. Tajdin Hasanali Halani as an Arbitrator applying the second MOU dated 11th October, 2019. Notice invoking arbitration is also given with reference to 2013 MOU. Mr. Tajdin Hasanali Halani is also one of the noted Arbitrator in the first MOU dated 19th September, 2013. However, there is also one more Arbitrator's name in the said MOU, to which the Respondents have not agreed to. As such, there is a deviation in the appointment clause by both the parties.

¹ (2009)8 Supreme Court Cases 520.

13. Doubt is also expressed as regards the Mr. Tajdin Hasanali Halani impartiality, in view of the dispute between the Applicants and Mr. Tajdin Hasanali Halani.

14. Considering this aspect of the matter, this Court would pass the following order :-

(A) Mr. Nitin Jamdar, Former Chief Justice of Kerala High Court is appointed as the sole Arbitrator to adjudicate upon the disputes and differences between the parties arising out of and in connection with the Agreements referred to above. The contact details of the Arbitrator are as under :-

Mobile No. : 9819829319
Email ID : nitinjamdar@gmail.com

(B) A copy of this order be communicated to the learned sole Arbitrator by the Advocates for the Applicant within a period of 1 week from the date of uploading 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) Seat of the arbitration would be governed by the provisions of the agreement executed between the parties.

(D) 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 Advocates for the Applicant so as to enable them to file the same in the Registry of this Court. The Registry of this Court shall retain the said Statement on the file of this Application and a copy of the same shall be furnished by the Advocates for the Applicant to the Respondent.

(E) The parties shall appear before the learned sole Arbitrator on such date and at such place as indicated by him, to obtain appropriate direction 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, if any, 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.

(F) 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.

15. All contentions of the parties are expressly kept open to be agitated before the Arbitral Tribunal appointed as above.

16. With the above directions, Commercial Arbitration Application No. 113 of 2026 stands disposed of accordingly.

[ARUN R. PEDNEKER, J.]

GITALAXMI
KRISHNA
KOTAWADEKAR

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