

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
COMMERCIAL ARBITRATION APPLICATION NO. 16 OF 2026
WITH
COMMERCIAL ARBITRATION APPLICATION NO. 57 OF 2026

Sudhir Krishnaraj Thackersey

.....APPLICANT

: **VERSUS:**

Raoul Sudhir Thackersey and Anr.

....RESPONDENTS

Mr. Karl Tamboly with Mr. Pramod G. Kathane, Mr. Amol Ghurde and Mr. Krishna Dere for the Applicants.

Mr. V.R. Dhond, Senior Advocate with Mr. Shyam Kapadia and Ms. Karishma Rao i/b. Dastur Kalambi & Associates, for the Respondents.

CORAM: SANDEEP V. MARNE, J.

DATED: 9 FEBRUARY, 2026.

P.C. :

1) These are applications filed under Section 11 of the Arbitration and Conciliation Act (**Arbitration Act**) for constitution of Arbitral Tribunal for adjudication of disputes and differences between the parties arising out of Deeds of Partnership dated 1 March 2020, which are in respect of two firms.

2) I have heard Mr. Tamboly, the learned counsel for Applicant and Mr. Dhond, the learned Senior Advocate for Respondent Nos. 1 and 2 in both the Applications.

3) There is no dispute about existence of arbitration agreement in both the Deeds of Partnership. However, Mr. Dhond essentially seeks to raise three objections to constitution of Arbitral Tribunal. Firstly, he submits that subject matter is not arbitrable since the only income of the firm is license fees received by partnership firm from the tenants in respect of the property in question. He further submits that the real intention of the Applicant is to surrender tenancy in the properties and that this dispute cannot be settled by way of private arbitration. The second objection raised by Mr. Dhond is that Applicants have abandoned arbitration by taking self destructive plea in Suit No. 141 of 2025 and counter-claim wherein the Applicant has raised a plea that there is no partnership as such and what exists is actually Hindu Undivided Family with seven co-parceners. Thirdly, Mr. Dhond submits that since Applicant himself has taken the position that there exists HUF with seven co-parceners, the dispute cannot be resolved by arbitration only between Applicants and Respondent Nos. 1 and 2. In my view, all the three objections sought to be raised by Mr. Dhond can be considered and decided by the Arbitral Tribunal under Section 16 of the Arbitration Act where the inquiry is much wider and aggrieved party also has sought to file appeal.

4) Mr. Tamboly relies on the judgment of Apex Court in **SBI General Insurance Co. Ltd. Versus. Krish Spinning¹** and **Office for Alternative Architecture Versus. Ircon Infrastructure and Services Ltd.²**. In both the judgments, Apex Court has expressed that Courts exercising powers under Section 11 of the Arbitration Act should ordinarily adopt “hands-off” approach and leave all objections to be decided by the Arbitral Tribunal once it is satisfied about existence of arbitration agreement between the parties.

1 2024 SCC Online SC 1754

2 2025 SCC Online SC 1098

5) In the present case, there is no dispute about existence of arbitration agreement in the Deeds of Partnership. Therefore, it would be just and proper to constitute Arbitral Tribunal comprising of sole arbitrator and leave all the three objections raised by Respondent Nos. 1 and 2 to be raised in application under Section 16 of the Arbitration Act.

6) Accordingly, I proceed to pass the following order :

(A) Mr. Justice S. J. Vazifdar, Former Chief Justice of Punjab and Haryana High Court (Retd.) is appointed as Sole Arbitrator to adjudicate upon the disputes and differences between the parties arising out of the Deeds of Partnership referred to above. The contact details of the Arbitrator are as under :

Office Address :- 6 & 12a, Maison Belvedere, 1st Floor, 107,
Maharshi Karve Road, Next to Aayakar
Bhavan, Mumbai.

Email ID :- shivaxvazifdar@gmail.com

Mobile No.:- 98201 02088

(B) A copy of this order be communicated to the learned sole Arbitrator by the Advocate for the Applicant within a period of one 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 alongwith 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 2 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 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.
- (E) The fees of the Arbitrator shall be borne by the parties in equal proportion and shall be subject to the final Award that may be passed by the Tribunal.
- 7) All rights and contentions of the parties including the ones noted in the order are expressly left open to be agitated before the Arbitral Tribunal.
- 8) With the above directions, both the Commercial Arbitration Applications are **disposed of**.

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[SANDEEP V. MARNE, J.]