



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

MISC. CIVIL APPLICATION [ARBN] NO.746 OF 2025

[Anup Shyam Karnani .vs. Shammi Kanhiyalal Mamtani and others]

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri Sunil Manohar, Senior Advocate assisted by Shri A.S. Manohar, Advocate
for Applicant.

Shri Piyush Deshpande, Advocate for Respondent Nos.2-A to 2-C through VC.

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CORAM : PRAVIN S. PATIL, J.

DATED : 24.02.2026.

1. By this application, the applicant is seeking direction to appoint a sole Arbitrator to adjudicate upon the disputes that have arisen between the parties.

2. It is the submission of the present applicant that respondent no.4 is a Limited Liability Partnership Firm registered under the Limited Liability Partnership Act, 2008 (LLP Act) bearing Limited Liability Partnership Identification Number AAA-4622 formed under LLP Agreement dated 28th April, 2011 and supplemental Agreement to the Agreement of Limited Liability Partnership dated 19th April, 2016.

3. It is also stated that the present applicant and respondent nos.1 to 3 are the partners of respondent no.4-LLP firm. Their ratio of profits and losses has been agreed in their LLP agreement. It is submitted that there is a

dispute amongst the applicant and respondent nos.2 and 3 in relation to the outstanding capital contribution (and positive capital balance) in favour of the applicant in both ABLLP and respondent no.4. Approximately an amount of INR 16,83,00,000/- has remained outstanding to the applicant. In view of this dispute, the applicant through his Advocate vide its communication dated 29.3.2024 raised various demands and highlighted the breaches of the LLP Agreement by the respondent which is categorized as under :

(a) Breach of clause 7 and 10 of the LLP Agreement by Respondents and consequent demand for repayment of an amount of INR 8,02,51,232/- along with 12% interest per annum of INR 8,80,00,000/- (approx..) from the financial year 2014 to till date realization thereof i.e. total amounting to INR 16,83,00,000/- (approx..)

(b) Enforcing the liabilities of the Respondents for breach of clause 18(d) of the LLP Agreement.

(c) Demand against the Respondents to furnish information as provided under clause 18(j) of the LLP Agreement.

(d) The Respondents were called upon to correct serious irregularities and blatant errors in the balance sheet of Respondent No.4.

(e) Cease and desist from breaching clause 2 of the LLP Agreement by discontinuing the business of sale and purchase of Liquor.

4. It is stated that, Respondents did not responded to his letter dated 29.3.2024. Applicant, therefore, issued invocation letter dated 12.4.2024 as per clause 21 of the LLP Agreement. The respondents vide their reply dated 18.4.2024 denied the liability and by informing that applicant does not have any valid and legal claim against them, recorded their rejection of the appointment of the Arbitrator.

5. In the background of this factual position, the applicant approached before this court for appointment of Arbitrator.

6. In response to the notice issued by this court, the respective counsel appeared on behalf of respondent nos.1 to 3 and pointed out that in one of the similar proceeding of concerned sister company an application for appointment of Arbitrator was filed by Anup Shyam Karnani before the Principal Bench bearing Arbitration Application No.69/2023. In the said proceeding, this court by its judgment dated 28.3.2024 and 10.4.2024 nominated Mr. Justice Akil Kureshi (Former Chief Justice of Rajasthan High Court) as an Arbitrator in the matter. Accordingly, they stated that they have no objection to nominate Mr. Justice Akil Kureshi (Former Chief Justice of Rajasthan High Court) as an Arbitrator in the present matter also.

7. In view of the fact that there is a Clause 21 in the LLP Agreement and the consent given by the respondents,

in my opinion, there is no impediment to appoint Mr. Justice Akil Kureshi (Former Chief Justice of Rajasthan High Court) as an Arbitrator in the matter. Hence, I proceed to pass the following order :

O R D E R

(1) Mr. Justice Akil Kureshi (Former Chief Justice of Rajasthan High Court) is appointed as an Arbitrator to adjudicate the disputes between the parties which is the subject matter of the present application.

(2) The Arbitrator is requested to file his disclosure statement, as per Section 11(8), under Section 12 (1) of the Arbitration Act, within four weeks and provide the copies of the same to the parties.

(3) The parties to appear before the Arbitrator on a date to be fixed by him with the consent of the parties at his earliest convenience.

(4) All the parties shall bear the cost of the Arbitration equally.

(5) The office to notify the Arbitrator of his appointment including via email.

(6) The application stands disposed of in above terms with no order as to costs.

(PRAVIN S. PATIL, J.)