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

\+ CS(COMM) 799/2023, I.A. 22001/2023, I.A. 22002/2023, I.A. 258/2024

TARRUSH GUPTA AND ORS. .....Plaintiffs

Through: Mr Amarjit Singh Bedi, Mr Varun Chandiok, Ms. Riya Seth, Advocates.

versus

G.M. DIE CASTING INDUSTRIES AND ORS. .....Defendants

Through: Mr. Amit Sethi, Mr. B. Anand and Mr. Neeraj Kargeti, Advocates for Defendant no. 1.2 , 3 and 4

CORAM:
HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

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

% **29.01.2026**

1. The present Suit has been filed for rendition of accounts, mandatory and permanent injunction. The dispute is a commercial dispute in terms of Section 2(1)(c)(xv) of the Commercial Courts Act, 2015.

2. Facts of the case reveal that the Defendant No. 1 firm, M/s G.M. Die Casting Industries, was constituted on 30.04.1983 by way of a partnership deed executed between Late Shri Ajay Gupta (father of Plaintiffs No. 1 and 2 and husband of Plaintiff No. 3), Shri Rajan Gupta (Defendant No. 2 and brother of Late Shri Ajay Gupta), Ms. Lata Gupta (Defendant No. 3 and sister-in-law of Late Shri Ajay Gupta), and Late Smt. Sushila Devi (mother of Late Shri Ajay Gupta), for carrying on the business of aluminum pressure die-casting. It is stated that the said partnership was a partnership at will, and Clause 14 of the Partnership Deed specifically provided that upon the death

of any partner, his or her spouse or legal heirs would be admitted to the benefits of the partnership. It is stated that during the subsistence of the partnership, the firm acquired several immovable assets, including a vacant plot bearing Khasra No. 86, Pehladpur Bangur, Rohini, Delhi, admeasuring 357 sq. yards, which was purchased in the name of the partnership firm on 16.01.1998.

3. Subsequently, on 29.11.2005, the firm purchased another property bearing No. P-79, Sector-3, DSIIDC, Pooth Kalan Road, Bawana, Delhi-110042, admeasuring 250 sq. meters with built-up two storey, also in the name of the partnership firm. It is stated on 27.09.2006, Smt. Sushila Devi, one of the partners of the firm, passed away intestate. Despite her death, the partnership firm was neither dissolved nor were its accounts settled, and the business continued to be carried on by the surviving partners. Thereafter, Shri Ajay Gupta, another partner of the firm, passed away intestate on 14.11.2009, leaving behind the Plaintiffs as his Class-I legal heirs. Even after the death of Late Shri Ajay Gupta, the partnership firm was not wound up, nor were the accounts settled, and the Plaintiffs were neither paid the value of Late Shri Ajay Gupta's share nor admitted to the benefits of the partnership, despite the express stipulation in Clause 14 of the Partnership Deed.

4. From 2009 onwards till 2023, Defendant Nos. 2 and 3, acting through Defendant No. 4, continued to run the partnership firm. According to the Plaintiffs, during this period, the Defendants held the Plaintiffs' share in the firm in a fiduciary capacity as trustees and repeatedly assured the Plaintiffs that they would either buy out the Plaintiffs' 1/3rd share after rendering true and correct accounts of the firm, or sell the assets of the firm and distribute

the Plaintiffs' share, or physically divide the immovable assets. It is stated that relying on these assurances, the Plaintiffs did not initiate litigation earlier. It is stated that in October 2023, the Plaintiffs claim to have discovered that one of the partnership properties was leased at a substantially undervalued rate and that certain assets of the firm had been sold without disclosure or rendition of accounts. In these circumstances, alleging breach of the partnership deed and denial of their contractual and legal rights flowing from Clause 14, the Plaintiffs filed the present Suit with the following prayers:

> "*a. Pass a decree of rendition of accounts against the defendants directing them to render the true and proper accounts of the partnership firm including but not restricted to the rent being received from leasing out property at serial no.2, proceeds of sale of movable assets of the firm and grant 1/3rd share in the profits of the firm to the plaintiffs till the time Plaintiffs are not provided their 1/3rd share.*
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> *b. Pass a decree of mandatory injunction directing the Defendants to provide an amount equivalent to 1/3rd share of the Plaintiffs in the firm or satisfy the claim of the Plaintiffs out of the assets (both movable and immovable) of the defendant no.1 firm or satisfy the claim of the Plaintiffs by sale of the assets of the firm.*
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> *c. Pass a decree of permanent injunction against the Defendants and in favour of the Plaintiffs restraining the Defendants from transferring, alienating, creating third party interest or in any manner dealing with the properties, immovable or movable of the partnership firm "M/s G.M Die Casting" and not to create any charge, encumbrance on the suit properties or any other assets of the Defendant No. 1 Firm, which exists but are not disclosed to the Plaintiffs;*

d. Costs of the suit be awarded in favour of the Plaintiffs.

e. Any other or further relief which is just, fit and proper in the facts and circumstances of the case be also awarded in favour of the Plaintiffs."

5. Material on record shows that an application under Section 8 of the Arbitration and Conciliation Act, 1996, being I.A. 258/2024, was filed by the Defendants No.1, 2, 3 & 4 for referring the parties to arbitration in terms of Clause 16 of the Partnership Deed dated 30.04.1983. The said Clause reads as under:

> "*16. That in case of any dispute,* ***the matter shall be decided as per the provisions of Indian Arbitration Act****."* (Emphasis Supplied)

6. In the said Application, it is further stated that the Partnership Deed dated 30.04.1983 was superseded by another Partnership Deed dated 01.04.1992 and Clause 15 of the latter Partnership Deed also contains an arbitration clause. The said Clause reads as under:

> "*15. That in case any dispute at any time arises between the parties with respect to meaning or effect of any clause in this agreement or rights and liabilities of parties under this agreement,* ***such question or dispute shall be referred to arbitration under Indian Arbitration Act, 1940, then in force***."
>
> (Emphasis Supplied)

7. Heard the learned Counsels for the parties and perused the material on record.

8. Section 8 of the Arbitration and Conciliation Act, 1996 reads as

under:

"*Section 8. Power to refer parties to arbitration where there is an arbitration agreement*
8. Power to refer parties to arbitration where there is an arbitration agreement.—

(1) A judicial authority, before which an action is brought in a matter which is the subject of an arbitration agreement shall, if a party to the arbitration agreement or any person claiming through or under him, so applies not later than the date of submitting his first statement on the substance of the dispute, then, notwithstanding any judgment, decree or order of the Supreme Court or any court, refer the parties to arbitration unless it finds that prima facie no valid arbitration agreement exists.

(2) The application referred to in sub-section (1) shall not be entertained unless it is accompanied by the original arbitration agreement or a duly certified copy thereof.

Provided that where the original arbitration agreement or a certified copy thereof is not available with the party applying for reference to arbitration under sub-section (1), and the said agreement or certified copy is retained by the other party to that agreement, then, the party so applying shall file such application along with a copy of the arbitration agreement and a petition praying the court to call upon the other party to produce the original arbitration agreement or its duly certified copy before that court.

(3) Notwithstanding that an application has been made under sub-section (1) and that the issue is pending before the judicial authority, an arbitration may be commenced or continued and an arbitral award made."

9. It is clear that there is no dispute regarding the existence of the arbitration clauses. Clause 16 of the Partnership Deed dated 30.04.1983, as well as Clause 15 of the subsequent Partnership Deed dated 01.04.1992, unequivocally provide that any dispute arising between the partners in relation to the partnership, its affairs, or the rights and liabilities of the parties shall be referred to arbitration.

10. Moreover, careful reading of the Plaint shows that the entire dispute raised by the Plaintiffs flows directly from the partnership deeds - the reliefs sought, including rendition of accounts, settlement of partnership assets, determination of shares, and injunctions restraining dealing with partnership properties, arise out of and are intrinsically connected with the partnership arrangement. The subject matter of the present Suit is, therefore, squarely covered by the arbitration clauses contained in the partnership deeds.

11. The Apex Court in Hindustan Petroleum Corpn. Ltd. v. Pinkcity Midway Petroleums, **(2003) 6 SCC 503**, while holding that the civil Court has no jurisdiction to continue with the Suit once an application under Section 8 of the Arbitration and Conciliation Act, 1996 has been filed, has held as under:

> "***14***. *This Court in the case of P. Anand Gajapathi Raju v. P.V.G. Raju [(2000) 4 SCC 539] has held that the language of Section 8 is peremptory in nature.* ***Therefore, in cases where there is an arbitration clause in the agreement, it is obligatory for the court to refer the parties to arbitration in terms of their arbitration agreement and nothing remains to be decided in the original action after such an application is made except to refer the dispute to an arbitrator. Therefore, it is clear that if, as contended***

***by a party in an agreement between the parties before the civil court, there is a clause for arbitration, it is mandatory for the civil court to refer the dispute to an arbitrator**. In the instant case the existence of an arbitral clause in the Agreement is accepted by both the parties as also by the courts below but the applicability thereof is disputed by the respondent and the said dispute is accepted by the courts below. Be that as it may, at the cost of repetition, we may again state that the existence of the arbitration clause is admitted. If that be so, in view of the mandatory language of Section 8 of the Act, the courts below ought to have referred the dispute to arbitration."*

(Emphasis Supplied)

12. This Court finds that a valid arbitration agreement exists between the parties and that the disputes raised in the Suit are arbitrable in nature. Once the conditions under Section 8 of the Arbitration and Conciliation Act, 1996, are fulfilled, jurisdiction of the civil court to entertain the Suit stands ousted. This Court cannot proceed to adjudicate the merits of disputes which the parties have consciously agreed to resolve through arbitration. Any contrary course would defeat the legislative mandate under the Arbitration and Conciliation Act, 1996, which seeks to promote party autonomy and minimize judicial intervention.

13. In view of the existence of a binding arbitration agreement in both the Partnership Deeds and the nature of the disputes raised, I.A. 258/2024 is allowed and the Parties are referred to Arbitration.

14. All pending applications also stand disposed of accordingly.

15. It is clarified that the dismissal of the present Suit shall not prejudice the rights of the Plaintiffs to seek appropriate remedies in accordance with law.

16. The Plaintiffs are granted liberty to file an appropriate petition under Section 11 of the Arbitration and Conciliation Act, 1996 before the competent court for appointment of an arbitrator to adjudicate upon the disputes between the parties herein.

SUBRAMONIUM PRASAD, J

JANUARY 29, 2026
Rahul