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\* IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of Decision: 23<sup>rd</sup> January, 2026

+ CS(OS) 154/2018 & I.A. 4920/2018, I.A. 11587/2018, I.A. 11588/2018, I.A. 11589/2018, I.A. 11590/2018, I.A. 11592/2018, I.A. 11593/2018, I.A. 11594/2018, I.A. 11595/2018, I.A. 11596/2018

MR. PRANAV GUPTA .....Plaintiff

Through: Dr. Anurag Kumar Agarwal, Mr. Ram Gupta, Advocates  
(M:9891050987)

versus

ADEESH GUPTA & ORS .....Defendants

Through: Mr. Rakesh K. Khanna, Sr. Adv. with Mr. Rajiv K. Garg, Mr. Ashok Rana, Ms. Ritu Dhingra, Mr. Shiven Banga, Ms. Arushi Jindal, Advocates for D 1-5, 19, 20, 28 to 33, 36, 37, 40, 42 to 47 and 50 to 53 (M:9810002830)

**CORAM:**

**HON'BLE MS. JUSTICE MINI PUSHKARNA**

**MINI PUSHKARNA, J (ORAL):**

1. The present is a suit for partition, declaration, dissolution of partnership firms, rendition of accounts and mandatory and permanent injunction with respect to various immovable and movable properties mentioned in Schedule A, Schedule B, Schedule C and Schedule D, filed on behalf of the plaintiff, who is the son of defendant no.1.
2. This Court notes that *vide* order dated 06<sup>th</sup> May, 2019, the plaintiff had agreed that all the disputes, which are subject matter of the present suit, can be referred to arbitration.
3. Further, by way of the Will dated 10<sup>th</sup> November, 1998 of Late Shri



Dharam Pal Gupta, i.e., grandfather of the plaintiff, the estate of Late Shri Dharam Pal Gupta, had been bequeathed upon the plaintiff, some defendants and his wife Mrs. Rehti Devi.

4. It is also noted that *vide* order dated 06<sup>th</sup> May, 2019, the parties had made the statement that there is no dispute or challenge with regard to the aforesaid Will. The relevant portion of order dated 06<sup>th</sup> May, 2019, is reproduced as under:

“xxx xxx xxx

**16. The counsels state that there is no dispute amongst the parties of the validity of the documents claimed to be the Will, though the Will has not been probated.**

xxx xxx xxx”

*(Emphasis Supplied)*

5. It is further noted that the aforesaid Will envisages reference of disputes in relation to the Will to a resolution process, as indicated therein. The relevant portion of Will dated 10<sup>th</sup> November, 1998 is reproduced as under:

“xxx xxx xxx

*In case, any dispute arises amongst my legal heirs after my death, the following three Deciles (SAALAS) shall settle the dispute as per the WILL. Docile (SAALAS) No.1, Shri Purushottam Das Gupta son of Late Shri Lijja Ram Gupta resident of Liberty House, Railway Road, Karnal, Docile (SAALAS) No.2, Shri Rajkumar Bansal son of Late Shri Madan Mohan Bansal resident of Saraswati Bhawan, Vikram Marg, Karnal and Docile (SAALAS) No.3 Shri Adeesh Kumar Gupta son of Shri Dharampal Gupta resident of Liberty House, Railway Road, Karnal. In case, any of the above Docile's expires than the remaining two Docile's can appoint the third Docile out of the family members.*

*The decision of the above Docile's shall be binding on all the legal heirs in whose favour the WILL has been executed and all my legal heirs will be bound by the said decision. The WILL has been written down so that it remain authenticated.*

xxx xxx xxx”



6. In regard to the partnership deeds, it is noted that Late Shri Dharam Pal Gupta during his lifetime was the partner/shareholder/director of the business entity, i.e., M/s Liberty Footwear Company and held 3% share in the said partnership firm, in relation to which, several partnership deeds were executed. The said partnership deeds, latest of which is dated 08<sup>th</sup> September, 2003, contains separate and identical arbitration clauses, that provides for a mechanism to resolution of disputes by way of arbitration. The arbitral clause, i.e., Clause 14 of the latest Partnership Deed dated 08<sup>th</sup> September, 2003, is reproduced as under:

“xxx xxx xxx

**14. ARBITRATION**

*That in case of any dispute between the parties with regard to the interpretation of this deed or any other matter relating to the affairs of the firm, the same shall be referred to an arbitrator mutually agreed upon between the parties in accordance with the provisions of the Indian Arbitration Act.*

xxx xxx xxx”

7. The parties are *ad idem* that all the disputes, including, the disputes arising out of the Will dated 10<sup>th</sup> November, 1998, all partnership deeds as aforesaid, and the Hindu Undivided Family (“HUF”), and all other disputes related to partition between the parties, be referred to arbitration.

8. In regard to resolution of disputes by way of arbitral mechanism for all issues between the parties, even where there is no arbitration agreement/clause, the parties with their consent, can be relegated to the arbitral mechanism. Further, it is the intention of the parties which has to be given effect to in relation to the mechanism of resolution of disputes, and it is the duty of a Court to make the same workable, within the permissible limits of law. Thus, the Supreme Court in the case of *Mahanagar*



**Telephone Nigam Limited Versus Canara Bank and Others, (2020) 12 SCC 767**, held as follows:

“xxx xxx xxx

**9.3.** Section 7(4)(b) of the 1996 Act, states that an arbitration agreement can be derived from exchange of letters, telex, telegram or other means of communication, including through electronic means. The 2015 Amendment Act inserted the words “including communication through electronic means” in Section 7(4)(b). **If it can prima facie be shown that parties are ad idem, even though the other party may not have signed a formal contract, it cannot absolve him from the liability under the agreement** [Govind Rubber Ltd. v. Louis Dreyfus Commodities Asia (P) Ltd., (2015) 13 SCC 477: (2016) 1 SCC (Civ) 733].

**9.4.** Arbitration agreements are to be construed according to the general principles of construction of statutes, statutory instruments, and other contractual documents. **The intention of the parties must be inferred from the terms of the contract, conduct of the parties, and correspondence exchanged, to ascertain the existence of a binding contract between the parties. If the documents on record show that the parties were ad idem, and had actually reached an agreement upon all material terms, then it would be construed to be a binding contract.** The meaning of a contract must be gathered by adopting a common sense approach, and must not be allowed to be thwarted by a pedantic and legalistic interpretation. [Union of India v. D.N. Revri & Co., (1976) 4 SCC 147]

**9.5.** **A commercial document has to be interpreted in such a manner so as to give effect to the agreement, rather than to invalidate it. An “arbitration agreement” is a commercial document inter partes, and must be interpreted so as to give effect to the intention of the parties, rather than to invalidate it on technicalities.**

xxx xxx xxx

**9.7.** **In interpreting or construing an arbitration agreement or arbitration clause, it would be the duty of the court to make the same workable within the permissible limits of the law.** This Court in Enercon (India) Ltd. v. Enercon GmbH [Enercon (India) Ltd. v. Enercon GmbH, (2014) 5 SCC 1: (2014) 3 SCC (Civ) 59], **held that a common sense approach has to be adopted to give effect to the intention of the parties to arbitrate the disputes between them. Being a commercial contract, the arbitration clause cannot be construed with a purely legalistic mindset, as in the case of a statute.**

xxx xxx xxx”



*(Emphasis Supplied)*

9. In the present case, the parties are *ad-idem* and have provided their consent to resolve all the *inter-se* disputes by way of arbitration, thereby, clearly demonstrating their intention. Thus, there is no impediment in referring the parties to arbitration.

10. Accordingly, with the consent of the parties, the following directions are issued:

i. Justice Gita Mittal (Retd.), former Chief Justice of High Court of Jammu and Kashmir, (Mobile No.: 9818000220) is appointed as a Sole Arbitrator to adjudicate the disputes between the parties.

ii. The remuneration of the Arbitrator shall be in terms of Schedule IV of the Arbitration and Conciliation Act, 1996 ("**Arbitration Act**").

iii. The Arbitrator is requested to furnish a declaration in terms of Section 12 of the Arbitration Act prior to entering into the reference. In the event there is any impediment to the Arbitrator's appointment on that count, the parties are given liberty to file an appropriate application before this Court.

iv. It shall be open to the defendants to raise counter-claims, if any, in arbitration proceedings.

v. It is made clear that all the rights and contentions of the parties, including, the arbitrability of any of the claims and/or counter-claims, any other preliminary objection, as well as claims on merits of the dispute of either of the parties, are left open for adjudication by the learned Arbitrator.

vi. The parties shall approach the Arbitrator within two (2) weeks from today.

11. Needless to state, nothing contained in this order shall be construed as an expression of this Court on the merits of the case.



12. This Court notes that *vide* order dated 13<sup>th</sup> April, 2018, an interim order was passed in favour of the plaintiff, in the following manner:

“xxx xxx xxx

*Issue notice of the suit and application to the defendants by all modes on filing of PF/RC returnable for 27.08.2018 before the Joint Registrar and in the meanwhile the status quo qua title of the properties mentioned in Schedule A, B and C be maintained.*

xxx xxx xxx”

13. Learned Senior Counsel appearing for the contesting defendants submits that the parties are part of a company, which is a viable and thriving company. He, thus, submits that the aforesaid interim order dated 13<sup>th</sup> April, 2018 be vacated. He submits that the contesting defendants are ready to deposit security to the satisfaction of the learned Arbitrator.

14. Accordingly, it is directed that the *status quo* order dated 13<sup>th</sup> April, 2018 stands vacated, subject to deposit of security by the defendants before the learned Arbitrator, to the extent of Rs. 20,00,00,000/- (Rupees Twenty Crores), to the satisfaction of learned Arbitrator.

15. With the aforesaid directions, the present suit, along with pending applications, stands disposed of.

**MINI PUSHKARNA, J**

**JANUARY 23, 2026/au**