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

% *Date of Decision: 02<sup>nd</sup> May 2025*

+ ARB.P. 2091/2024

SANJAY KUMAR JAIN

.....Petitioner

Through: Mr. Harshit Agarwal and Mr. Rahul Chaudhary, Advocates.

versus

RAJAN KUMAR JAIN AND ANR.

.....Respondents

Through: Mr. Tara Chand Sharma, Advocate.

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+ O.M.P.(I) (COMM.) 418/2024

SANJAY KUMAR JAIN

.....Petitioner

Through: Mr. Harshit Agarwal and Mr. Rahul Chaudhary, Advocates.

versus

RAJAN KUMAR JAIN & ANR.

.....Respondents

Through: Mr. Tara Chand Sharma, Advocate.

**CORAM:**

**HON'BLE MS. JUSTICE JYOTI SINGH**

**JUDGEMENT**

**JYOTI SINGH, J. (ORAL)**

**ARB.P. 2091/2024**

1. This petition is preferred on behalf of the Petitioner under Section 11(6) of the Arbitration and Conciliation Act, 1996 ('1996 Act') for appointment of an Arbitrator.

2. Petitioner and Respondent No. 1 are stated to be brothers born out of the wedlock of late Shri Shrimandher Dass Jain and late Smt. Sarla Devi Jain. Respondent No. 2 is the dissolved firm, namely, M/s Jainsons Electronics.



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2. It is the case of the Petitioner that Shri S.D. Jain was instrumental in the growth of the finances of the family and was engaged in business of all types of electrical goods. He along with his wife and children carried on the business as partners under the name and style of M/s Jainsons Electronics under a Partnership Deed dated 02.03.1978. Respondent No. 2 was reconstituted on various occasions as old partners retired and new partners joined. All three sons of Shri S.D. Jain i.e., Shri Raj Kumar Jain, Shri Rajan Kumar Jain and Shri Sanjay Kumar Jain were partners in the firm.

3. It is stated in the petition that on 01.04.2012, one of the partners i.e., Shri Raj Kumar Jain retired from the firm and the firm was reconstituted and a new deed of partnership was executed between Petitioner and Respondent No. 1 on 01.04.2012, wherein both partners had 50% share each in the profit and loss. Over the years, disputes and differences arose between the family members but despite intervention of the elders in the family, differences could not be resolved and it was decided to dissolve the firm and accordingly, a Dissolution Deed was executed on 30.04.2013.

4. Learned counsel for the Petitioner submits that *albeit* the partnership firm was dissolved, disputes pertaining *inter alia* to settlement of accounts have continued and Respondent No. 1 is managing the affairs and also the records and accounts to the exclusion of the Petitioner, who thus has no knowledge of what falls to the share of the Petitioner. Since the accounts were unsettled at the time of dissolution, bank accounts of the firm were kept operational for settling the accounts amongst the partners and the creditors and debtors. In fact, till 2018, books of account of the firm were being maintained jointly by the partners but subsequent thereto, Respondent No. 1 even took away the records. It is urged that Respondent No. 1 and his



family members are indulging in fudging and falsification of books of account and are setting up false cases against the Petitioner for recovery of certain amounts, for which legal notices have also been sent without any basis.

5. It is further submitted that the Partnership Deed dated 01.04.2012 provided in Clause 17 that any dispute or difference of opinion with regard to the partnership shall be referred to arbitration and hence, disputes having arisen, Petitioner invoked the Arbitration Agreement vide notice dated 19.07.2024, to which Respondent No. 1 sent a reply dated 09.08.2024 baldly denying the submissions of the Petitioner and taking a stand that since the partnership was dissolved, there was no question of reference to arbitration, which is wholly incorrect as Clause 17 envisages arbitration as mechanism for adjudication of disputes arising out of the partnership.

6. Learned counsel for the Respondents, *per contra*, opposes the petition on a singular ground that Arbitration Clause existed in the Partnership Deed dated 01.04.2012 but once the partnership dissolved on 30.04.2013, the Arbitration Clause extinguished and the Dissolution Deed 30.04.2013 does not contain any Arbitration Clause.

7. Heard learned counsels for the parties.

8. It is not disputed on behalf of the Respondents that Partnership Deed dated 01.04.2012 contained an Arbitration Clause, which is extracted hereunder for the ease of reference:-

*“17. That any dispute or difference of opinion with regard to the said partnership, which may arise between the partners, shall be referred to the arbitration and decision of the arbitrator shall be final and binding on both the parties”*



9. From a plain reading of the aforementioned clause, it is evident that parties to the Partnership Deed dated 01.04.2012 intended that any dispute or difference of opinion with regard to the said partnership, which may arise between the parties, shall be referred to arbitration. There can be no doubt that disputes pertaining to settlement of accounts etc., with respect to the partnership between Petitioner and Respondent No. 1 upon dissolution of the firm, will be disputes with regard to the partnership, even if the partnership was dissolved subsequently. The fact that the Dissolution Deed did not contain any Arbitration Clause, makes no difference. The legal notices sent by Respondent No. 1 also indicate that there are pending disputes till date with regard to the records of partnership, settlement of accounts between Petitioner and Respondent No. 1 as also with creditors and debtors of the erstwhile partnership firm. Accordingly, there is no impediment in enforcing the Arbitration Agreement and appointing an Arbitrator.

10. This petition is allowed, appointing Mr. Naveen Gupta, Advocate (Mobile No. 9312248478) as Sole Arbitrator to adjudicate the disputes between the parties. Arbitration proceedings will be held under the aegis of DIAC and as per its Rules. Fee of the Arbitrator shall be fixed as per fee schedule of DIAC Rules 2018.

11. Learned Arbitrator shall give disclosure under Section 12 of the 1996 Act before entering upon reference.

12. It is made clear that this Court has not expressed any opinion on the merits of the case and all rights and contentions of the respective parties are left open.

13. Petition is disposed of in the aforesaid terms.



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14. This petition is filed under Section 9 of 1996 Act by the Petitioner for preservation and inspection of books of accounts of the dissolved partnership, being the subject matter of the dispute in arbitration.

15. As the Sole Arbitrator has been appointed, this petition is disposed of with a limited direction that Respondents shall preserve all the records of the partnership firm constituted under Partnership Deed dated 01.04.2012, including the books of account. Insofar as other interim reliefs are concerned, it will be open to the Petitioner to take recourse to appropriate remedies before the learned Arbitrator.

**JYOTI SINGH, J**

**MAY 02, 2025/RW**