

IN THE HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD

R.A. No.52 of 2018.

DATE	ORDER WITH SIGNATURE OF JUDGE(S)
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1. For katcha peshi.
2. For hearing of C.M.A-405 of 2018.

29.03.2018.

Mr. Ayatullah Khuwaja, Advocate for the applicants.

Mr. Muhammad Arshad S. Pathan, Advocate for respondent No.1.

Mr. Ghulam Abbas Sangi, Assistant A. G.

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Heard arguments.

2. After detailed scrutiny of the documents and the impugned order, both the learned counsel agree that there is clear mandate given in the partnership agreement dated 23.08.2006 that on arising of a dispute between the two partners the matter would be referred to Arbitrators under clause 19 and no recourse would be made to the Court of law under clause 21 of the said agreement. It is admitted that all disputes between the partners and now having one of the partners namely Abdul Rafi Abbasi expired, who legal heirs have entered into his shows as envisaged under clause 6. Clause 19 of the agreement in very clear term mentions the name of Abdul Malik Abbasi and Muhammad Nadeem Ghori as Arbitrators to whom any dispute arisen out between the partners over said partnership business was to be referred. However, it is admitted that these two individuals are litigating with each other before the Court of law and for the reason that they are unlikely to act as Arbitrator and an application was moved to the Court under section 20 of the Arbitration Act, *inter alia*, for the appointment of receiver and an order

was passed dated 19.10.2017, dismissing the said application on account of limitation. An appeal was preferred which reversed these findings and remanded the matter back to the trial Court to appoint the new arbitrator(s) and to hear the parties on the point of limitation. Against this order of the appellate Court, the instant revision application has been filed.

3. After detailed deliberation, the counsel reached to a consensus that in the interest of partners since the two individuals Abdul Malik Abbasi and Muhammad Nadeem Ghori are not available as Arbitrators alternate names will be suggested by both the counsels for the course of determination. Learned counsel for respondent No.1 has submitted that he has already suggested names of 05 individuals. Learned counsel for the applicant undertakes to submit his own names or may agree upon the names as suggested by learned counsel for respondent No.1. This exercise be done within two weeks before the trial Court and with the consent of both parties, let the trial Court choose two individuals from the lists submitted by both parties to settle the dispute between the two partners. The trial Court shall pass final order as to the names of the two Arbitrators within two weeks after the parties are agreed to the said names. Thereafter the matter be referred to the newly appointed Arbitrators for deciding the dispute between the parties in accordance with law.

4. The instant revision application is accordingly disposed of in above terms alongwith the listed application.

JUDGE

