

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/PETN. UNDER ARBITRATION ACT NO. 78 of 2025**

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BIRAV HEMENDRABHAI SHAH

Versus

ABUBAKKER MEMON S/O ABDULSHAKUR MEMON

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Appearance:

MR HARSH M SURTI(3907) for the Petitioner(s) No. 1

MR SIKANDER SAIYED(3458) for the Petitioner(s) No. 1

MR RUSI B TRIVEDI(11227) for the Respondent(s) No. 1

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**CORAM:HONOURABLE THE CHIEF JUSTICE MRS. JUSTICE
SUNITA AGARWAL**

Date : 17/07/2026

ORAL ORDER

1. There is an objection with regard to the arbitrability of the dispute on the premise that the arbitration clause invoked by the petitioner is part of an agreement which though contains signature of the respondent, but the same was notorised, affirmed and verified in the absence of the said respondent, i.e. when he was abroad.

2. It is further sought to be submitted that the partnership deed, arbitration clause whereof is invoked, is not the actual deed. There is another deed executed between the parties for constitution of the partnership firm, which contains an arbitration clause, different from the clause invoked by the petitioner herein.

3. Be that as it may, there is no dispute that a partnership agreement was executed between the parties.

4. The dispute about which of the agreement created partnership between the parties would require leading of evidence by the contesting party and, as such, cannot be adjudicated at the pre-referral stage, within the limited scope of Section 11 of the Arbitration and Conciliation Act' 1996.

5. Also there is no dispute about the notice invoking arbitration under Section 21 of the Arbitration and Conciliation Act' 1996 having been served upon the respondent.

6. In view of the above, I allow the present petition keeping open all rights and contentions of the parties. Hence, I pass the following:-

ORDER

(i) Petition is allowed.

(ii) **Hon'ble Mrs. Justice Mauna M. Bhatt**, Former Judge, High Court of Gujarat, having address at: D-45, Aryaman Bungalows, Thaltej-Shilaj Road, Shilaj, Thaltej, Ahmedabad - 380059 and having contact number 9825039195 and Email ID: maunambhatt@gmail.com is hereby appointed as the sole Arbitrator to resolve the disputes between the parties in accordance with the Arbitration Centre (Domestic and International), High Court of Gujarat Rules, 2021. Both Parties would also be governed by said Rules.

(iii) Registry to communicate this order to the sole Arbitrator forthwith by Speed Post.

(iv) Pending application/s, if any, stands consigned to records.

SAHIL S. RANGER

(SUNITA AGARWAL, CJ)