



IN THE HIGH COURT OF KARNATAKA, AT DHARWAD

DATED THIS THE 25TH DAY OF FEBRUARY, 2026

BEFORE

THE HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

CIVIL MISC PETITION NO.100027 OF 2024

BETWEEN:

F. SRINIVAS S/O. F. SHANMUKHAPPA,
AGE. 51 YEARS, OCC. AGRICULTURIST AND BUSINESS,
R/O. #30, WARD NO.3, SIDDIKERI, GANGAVATHI,
DIST. KOPPAL-583235.

...PETITIONER

(BY SRI. ANOOP G.DESHPANDE, ADVOCATE)

AND:

1. M/S. BASAVESHWAR RICE INDUSTRIES,
A REGISTERED PARTNERSHIP FIRM,
HAVING REGISTERED OFFICE AT SY.NO.139
RAICHUR ROAD, VIDYA NAGAR,
GANGAVATI, DIST. KOPPAL-583235.
2. F. SHANMUKHAPPA S/O. FAKEERAPPA CHALUVADI,
AGE. 76 YEARS, OCC. BUSINESS,
R/O. #30, WARD NO.3 SIDDIKERE,
GANGAVATI, DIST. KOPPAL-583235.

...RESPONDENTS

(BY SRI. PRANAV BADAGI, ADVOCATE FOR
SRI. S.B. HEBBALLI, ADVOCATE FOR R2;
NOTICE TO R1 NOT REQUIRED (V/O/DATED 18.09.2025))

THIS CIVIL MISCELLANEOUS PETITION FILED UNDER SECTION 11(6) OF THE ARBITRATION AND CONCILIATION ACT 1996, PRAYING TO A) TO APPOINT ANY ARBITRATOR TO ADJUDICATE THE DISPUTE THAT HAS ARISEN BETWEEN THE PARTNERS OF THE FIRM, THE PETITIONER AND RESPONDENTS HEREIN PURSUANT TO CLAUSE NO.14 OF PARTNERSHIP DEED DATED 12.04.1994 AT ANNEXURE-A AND TO RESOLVE THE DISPUTE BEFORE THE ARBITRATOR. HENCE IT IS JUST AND PROPER TO ALLOW THIS PETITION IN THE INTEREST OF JUSTICE AND EQUITY. B) TO AWARD COST OF THIS PETITION AND PASS SUCH ORDERS AS THIS HON'BLE COURT DEEMS FIT.





THIS CIVIL MISCELLANEOUS PETITION HAVING BEEN HEARD AND RESERVED ON 07.01.2026, COMING ON FOR PRONOUNCEMENT OF ORDER THIS DAY, THE COURT PRONOUNCED THE FOLLOWING:

CORAM: THE HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

CAV ORDER

The present Civil Miscellaneous Petition is filed to appoint any arbitrator to adjudicate the dispute that has arisen between the partners of the firm, the petitioner and the respondents herein pursuant to clause No.14 of the partnership deed dated 12.04.1994 and to resolve the dispute before the arbitrator.

2. The respondent No.1 is Firm registered under the provisions of the Indian Partnership Act, 1932. The said firm was established by the petitioner and respondent No.2 with mutual agreement for establishment of a Rice Mill in the name and style M/s. Basaveshwar Rice Industries for the purpose of carrying on the business of producing paddy, rice, broken rice and rice bran etc. In the said partnership deed, a specific clause No.14 mentions about the resolving the dispute if arose by way of arbitration. It is the case of the petitioner that pursuant to the partnership deed it was agreed between the parties i.e., petitioner and respondent No.2 that the place of manufacturing



would be at Sy.No.139 measuring 2 acres situated at Raichur Road taluk Gangavati District, Koppal. Further, it was agreed on between the parties to the partnership deed that respondent No.1 firm as per clause No.9 shall be in existence only for a period of 20 years or the loan is cleared whichever is earlier and that the capital shall be contributed in equal to the business and if any additional capital was required the same could be availed from the financial institutions. The profit and loss sharing ratio between the parties was agreed at 50% each.

3. It is stated that as per clause No.10, the loan availed till it is extinguished, no portion of firm's capital or interest accrued on the capital contributed by the partners shall be withdrawn and respondent No.1 firm could not be dissolved. It is stated that the loan availed from the Karnataka State Financial Corporation was repaid as per the terms of partnership deed. The property in which the firm is situated is considered as assets of the firm by virtue of clause No.5 of the partnership deed. It is the case of the petitioner that the petitioner is entitled for 50% share in the assets of the firm. It is the case that the firm's liabilities are in existence and the firm is not dissolved and the respondent No.2



has utilized the assets of the firm and is trying to alienate the assets of the firm which is against the principles of terms of agreement. Hence, the petitioner got issued a legal notice dated 11.03.2024 proposing to appoint Sri. M.H.M. Nanjundeshwara, as sole Arbitrator as per clause 14 of the partnership deed. The respondent No.2 has not replied to the said legal notice.

4. The petitioner has preferred a suit under Section 9 of the Arbitration and Conciliation Act, 1996 seeking injunction, restraining respondent No.2 from alienating the assets of the firm. The same is pending consideration before the Principal District and Sessions Judge, Koppal. Hence, invoking clause No.14, the petitioner is before this Court seeking appointment of the sole arbitrator for adjudication of the claims of the parties as per the arbitration clause in the partnership deed.

5. Learned counsel appearing for the petitioner submits that despite calling upon respondent No.2 to settle the liabilities and claims of the firm, no reply was given by the respondent No.2. As per the terms of the partnership agreement, the property is firm's property and the petitioner is entitled for 50%



of the share. Hence, appointment of Arbitrator is necessary for resolving the disputes between the parties.

6. The respondent No.2 has filed the objections. It is the case of respondent No.2 that the agreement provides for a arbitration clause for the differences/disputes with respect to conduct and activities of the management of the firm's business and the relief sought by the petitioner is for different purpose. Hence, there is no scope for arbitration and the same is liable to be dismissed. It is stated that the petitioner is seeking appointment of arbitrator for the purpose of carrying out the dissolution of firm and also seeking partition in immovable property which is not permissible in view of the clear terms in the arbitration clause. The petitioner has to approach the competent Court. The petitioner seeks to refer the dispute to arbitration seeking dissolution, setting the accounts and also the partition in respect of the property. The property being immovable property being self acquired property of respondent No.2 cannot be brought into property of partnership in absence of registered deed.



7. Learned counsel appearing for respondent No.2 has relied on the judgment of the Hon'ble Apex Court in case of **M/s Alchemist Hospitals Ltd. Vs. M/s ICT Health Technology Services India Pvt. Ltd.** arising out of **SLP(CIVIL) No.19647/2024 dated 06.11.2025**. He had relied on paragraph Nos.17 to 21 which reads as follows:

"17. The above rulings lead us to the irresistible conclusion that mere use of the word "arbitration" in a clause of an agreement is not clinching or decisive. Section 7 presupposes an express intention of the dispute/difference being resolved through arbitration and mere reference to the term is not sufficient to meet this threshold. The A&C Act acknowledges the existence of an arbitration agreement based on its substance rather than its form. Regardless of the formal structure, effect has to be given to an arbitration agreement in essence. Arbitration being the creature of a contract, the ad idem intention of the parties is paramount to determine whether there exists a valid arbitration agreement. That being said, the invocation of the word "arbitration" nonetheless provides, at the very least, a discernible clue to the parties' underlying intention.

18. The exercise of legal drafting partakes equally of art, science and logic, but we fear that Clause 8.28 does not seem to show allegiance to any. Be that as it may, the task of interpreting the clause is embarked upon bearing in mind the authoritative rulings in the field.

19. Clause 8.28 of the Agreement states that the parties must first attempt to negotiate the dispute in good faith. This part of the clause is admittedly not disputed in its meaning. The next part of the clause specifies that if the negotiation fails, then the parties would be obligated to mediate in the stated procedure and is then followed by the punctuation (:) colon, following which it prescribes that any dispute arising out of or relating in any way to the Agreement shall be resolved by "arbitration"



through senior management comprising respective Chairmen of the two parties (Arbitrators). Moreover, the agreement further stipulates that should the dispute not be resolved within fifteen (15) days after the proposed "arbitration", the complaining party shall seek remedies through the courts of law.

20. The word "arbitration" apart from appearing in the title of the relevant clause has been used 3 (three) times in the body of the clause. It is but obvious that the appellant has sought to rely on this inclusion of the word within the clause to submit that it forms an arbitration agreement.

21. Is mere repetitive use of the word "arbitration" clinching/decisive? It is now time to ascertain in line with the aforesaid decisions, whether the parties' intention was indeed to arbitrate, or merely to delineate a structured process of mediation."

8. Relying on this judgment, learned counsel for respondent No.2 submits that this petition is outside the scope of arbitration and the prayer as sought for by the petitioner cannot be granted.

9. Having heard the learned counsels on either side, perused the entire material on record. There is no dispute about the fact that both the parties have entered into a partnership deed on 12.04.1994 to carry on the business of producing paddy, rice, broken rice and rice bran etc. Clause Nos.5, 9 and 14 of the partnership deed reads as follows:



"5. It is mutually agreed that the rice-mill industry shall be installed at Survey No.139 situated at Raichur Road, Gangavati which land stands in the name of the first-party i.e., Sri.F.Shanmukhappa, S/o Fakeerappa Chaluvadi measuring 2 Acres and the same has been contributed to the firm by way of his share-capital in the firm's business profits/losses as such the said land shall hereafter become the asset of the firm."

"9. The duration of the partnership shall be for a period of Twenty Years or till the loan advanced/to be advanced by Karnataka State Financial Corporation is fully cleared whichever is earlier."

"14. That the difference of opinion between the partners as to the conduct, activities of the management of the firm is business, the same shall be settled by arbitration according to the provisions of the Indian Arbitration Act as in force from time to time."

10. In this case, it is not in dispute that the twenty years elapsed by the year 2014 and the entire dues to Karnataka Financial Corporation are settled. Whether the firm is in existence or not, this Court is not going into the said issue. The only dispute that is raised before this Court is with regard to the firm's property being sold by respondent No.2. The issue that falls for consideration is whether the dispute relating to the property of the partnership firm falls within the scope of arbitration clause contained in the partnership deed and whether the arbitrator can be appointed. It is the settled principle of law that arbitration is a creature of the contract and the jurisdiction of the arbitrator is spelled by the terms agreed between the



parties. The arbitration clause contained in the present deed is narrowly worded and restricts reference to arbitration only in respect of disputes arising out of the differences of opinion relating to the conduct and management of the business activities of the firm. The clause does not employ wider expression such as disputes arising out of or in connection with the partnership or disputes relating to dissolution of settlement of accounts. Therefore, the intention of the parties as seen from the clause was to confine arbitration only to operation and managerial disagreements concerning the functioning of the firm.

11. Now, the issue that is raised by the petitioner is with regard to the property and substantive civil disputes concerning the propriety rights of the parties and the same cannot be equated with disputes relating to conduct or management of business operations. All those disputes are beyond the limited ambit of managerial differences contemplated under the arbitration clause. While interpreting the clause of the partnership deed, this Court must give effect to the intention of the parties as per the terms of the agreement. When the parties



consciously restrict the scope of arbitration to specific categories of disputes, this Court cannot expand the ambit of arbitration by interpretation. If the intention of the party is to refer the disputes relating to resolution or settlement of partnership assets to arbitration, nothing prevented them from incorporating a comprehensive arbitration clause.

12. In view of the restricted wording of the arbitration clause and considering the nature of dispute relating to common property and settlement of partnership assets, this Court is of the view that the present dispute does not fall within the ambit of the matters agreed to be referred to arbitration. The invocation of arbitration clause in respect of the present dispute is not sustainable. Hence, this Court is passing the following;

ORDER

- i. Accordingly, the Civil Miscellaneous Petition filed seeking appointment of arbitrator is ***dismissed***.
- ii. However, the petitioner is at liberty to seek appropriate relief before the appropriate forum in accordance with law.



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CMP No. 100027 of 2024

iii. All I.As. in this Civil Miscellaneous Petition shall stand closed.

Sd/-
JUSTICE LALITHA KANNEGANTI

MEG
CT: UMD
List No.: 1 Sl No.: 2