

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

**CIVIL APPEAL No. _____ OF 2025
[arising out of SLP (C) No. 9000 OF 2024]**

KAMAL NACHANI & ANR.

APPELLANTS

VERSUS

SUNIL MANDWANI & ANR.

RESPONDENTS

ORDER

1. Leave granted.
2. The appellants had approached the Chief Justice of the Madhya Pradesh High Court by filing an application under Section 11(6) of the Arbitration and Conciliation Act, 1996¹ for appointment of an Arbitrator.
3. The ground on which such application was filed is that the Conciliator who had been appointed, being the respondent no.2 before us, is biased and his integrity is not above board.
4. By the impugned order dated 19th March, 2024, the High Court rejected the application giving rise to this appeal.
5. In course of these proceedings, the appellants filed an affidavit bringing on record certain photographs to demonstrate that the respondent no.2 is not fit and competent to continue as Conciliator. By filing a reply affidavit, the respondent no.1 has denied and disputed the averments/version in the affidavit of the appellants.
6. We are not required to examine the claims and counter claims having regard to the fact that the respondent no.2 himself has since recused himself from conducting the proceedings.

¹ 1996 Act

7. In that view of the matter, there is apparently no impediment in reviving the application under Section 11(6) of the 1996 Act for being considered afresh by the High Court.

8. At this stage, learned senior counsel appearing for the appellants and the respondent no.1 jointly submit that instead of remitting the matter to the High Court for consideration of the application under Section 11(6) of the 1996 Act afresh, this Court may appoint Hon'ble Mr. Justice Shantanu S. Kemkar (a former Judge of the Madhya Pradesh High Court, who later retired as a Judge of the High Court of Judicature at Bombay) as the sole Arbitrator.

9. We accept the submission of the learned senior counsel appearing for the parties and order accordingly.

10. Hon'ble Mr. Justice Shantanu S. Kemkar (retd.) (cell number 7678080789) is requested to act as the sole Arbitrator for deciding the *inter se* disputes and differences of the parties in accordance with the provisions of the 1996 Act and other relevant law. The fees of the sole Arbitrator and the other modalities shall be fixed in consultation with the parties.

11. We direct the parties to appear before the sole Arbitrator on 24th November, 2025 at 12:00 noon.

12. We have found from the record of proceedings that by an order dated 26th April, 2024, a 3-Judge Bench of this Court had stayed the arbitration proceedings, pending consideration of this appeal. Such order was followed by an order dated 13th September, 2024 passed by a coordinate Bench of this Court to the following effect:

“xx xx xx xx
Interim order shall continue to operate till the next
date of hearing.

However, the parties shall not, in any way, encumber, alienate or part with the possession of any of the immovable properties. They may carry on day-to-day business and accordingly deal with the movable assets/stock in trade.

Statement(s) of accounts with regard to day-to-day business will be maintained. Parties are directed to file such statement(s) of accounts in the Registry of this Court every four weeks. Copies of the statement(s) of accounts will be furnished to the learned counsel for the opposite side.”

12A. In view of the above, we direct that such interim order shall continue till 24th December, 2025 or till further order(s) to the contrary is/are passed by the sole Arbitrator upon any application for extension / modification / variation / vacation being filed by either of the parties.

13. The sole Arbitrator is also requested to conclude the proceedings as early as possible, subject to cooperation extended by the parties.

14. All points are kept open for the parties to raise before the sole Arbitrator.

15. In the result, the impugned order stands set aside.

16. The appeal is, accordingly, disposed of on the aforesaid terms.

17. Pending application(s), if any, also stand disposed of.

.....J.
[DIPANKAR DATTA]

.....J.
[AUGUSTINE GEORGE MASIH]

**New Delhi;
November 06, 2025.**

ITEM NO.15

COURT NO.9

SECTION IV-C

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal(C) No(s). 9000/2024

[Arising out of impugned final judgment and order dated 19-03-2024 in AC No. 7/2024 passed by the High Court of Madhya Pradesh at Indore]

KAMAL NACHANI & ANR.

Petitioner(s)

VERSUS

SUNIL MANDWANI & ANR.

Respondent(s)

[TO BE TAKEN UP AT 12:00 NOON].....IA
No.92705/2024-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT
and IA No.92706/2024-EXEMPTION FROM FILING O.T.
IA No. 92705/2024 - EXEMPTION FROM FILING C/C OF THE IMPUGNED
JUDGMENT
IA No. 180664/2025 - EXEMPTION FROM FILING O.T.
IA No. 171516/2024 - EXEMPTION FROM FILING O.T.
IA No. 92706/2024 - EXEMPTION FROM FILING O.T.
IA No. 180663/2025 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/
ANNEXURES
IA No. 99313/2024 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/
ANNEXURES

Date : 06-11-2025 This matter was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE DIPANKAR DATTA
HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

For Petitioner(s) :Mr. Manoj Munshi, Sr. Adv.
Mr. Mrigank Prabhakar, AOR
Mr. Siddharth Sahu, Adv.
Ms. Astha Singh, Adv.
Ms. Sakshi Banga, Adv.
Mr. Nr Shwetabh, Adv.

For Respondent(s) :Mr. N. K. Mody, Sr. Adv.
Mr. Vijay Assudani, Adv.
Mr. Azmat Hayat Amanullah, AOR
Ms. Rebecca Mishra, Adv.

UPON hearing the counsel the Court made the following
O R D E R

1. Leave granted.

2. The appeal is disposed of in terms of the signed order placed on the file.

(JATINDER KAUR)
P.S. to REGISTRAR

(SUDHIR KUMAR SHARMA)
COURT MASTER (NSH)