



Non-Reportable

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

Arbitration Petition No. 21 of 2025

Alan Mervyn Arthur Stephenson

...Petitioner

Versus

J. Xavier Jayarajan

...Respondent

J U D G E M E N T

K. VINOD CHANDRAN, J.

1. The petitioner who is residing in United Kingdom, having entered into a partnership, the deed of which contained an arbitration clause, seeks for the appointment of an arbitrator under Section 11(5) of the Arbitration and Conciliation Act, 1996. The respondent contends that the claim is hopelessly barred by limitation.

2. The brief fact to be noticed is that the partnership was entered into by the petitioner's sister and the respondent on

10.04.2008 with the objective of engaging in a real estate business; *inter alia* of construction of service apartments. The business was carried on, according to the respondent, with the active involvement of the petitioner, the brother of one of the partners. Later, the said partnership was dissolved on 22.12.2008. Both parties admit that a new partnership was entered into between the petitioner and the respondent on 20.09.2014. The petitioner alleges that substantial amounts were paid by him amounting to Rs.2,31,85,600/-, on the strength of Clause 6 of the Partnership Agreement which obligated 75% of the profits to be transferred to the petitioner, nothing was done in the property purchased on 04.05.2016. It is hence the prayer for appointment of an arbitrator.

3. Admittedly, the purchase of the land alleged, was on 04.05.2016 and as per the notice dated 09.12.2020 produced as per the Annexure P-1, the amounts were paid before the said date. As on the date of notice, hence the claim for recovery of amounts was barred by limitation.

4. It is also pertinent that the petitioner, in their arbitration request itself, admits that on 06.05.2017, a Police Complaint was raised before the Police Commissioner, Bangalore against the respondent for fraud and cheating. This complaint obviously was closed since the petitioner had approached the Chief Metropolitan Magistrate, Mayohall at Bangalore under Section 200 of the Criminal Procedure Code, 1973, which stood rejected on 16.06.2017. After the recital of the above facts, the petitioner in the arbitration request speaks of the receipt of payment of Rs. 1 lakh on 04.08.2017. Even if limitation is computed from the said date, the claim stands barred on 09.12.2020, when the notice was issued seeking appointment of arbitrator.

5. The Counter Affidavit of the respondent also speaks of a delayed challenge having been made to the order of the Magistrate after about a year which was also rejected by the Sessions Judge for reason of no explanation having been offered for the delay of 234 days. Even after the notice issued on 09.12.2020, the arbitration request was first made

before the High Court of Karnataka at Bengaluru on 22.06.2022 which remained in that Court till 20.01.2025, when the same was disposed of leaving liberty to take appropriate remedies. Relying on it, the petitioner filed the current petition. It goes without saying even the notice of arbitration was delayed and barred by limitation and the arbitration request itself was made two years after the initial notice.

6. The Arbitration Petition seeking appointment of arbitrator stands dismissed.

7. Pending applications, if any, shall stand disposed of.

..... CJI.
(B.R. GAVAI)

..... J.
(K. VINOD CHANDRAN)

**New Delhi;
October 14, 2025.**