



IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SPECIAL CIVIL APPLICATION NO. 10617 of 2026

FOR APPROVAL AND SIGNATURE:

HONOURABLE MR. JUSTICE NIKHIL S. KARIEL

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Approved for Reporting	Yes	No
	✓	
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RAMCHANDRA DAHYABHAI PRAJAPATI SINCE DECEASED THROUGH
HIS HEIRS AND LRs & ORS.

Versus

PUNAMCHAND DAHYABHAI PRAJAPATI & ANR.

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Appearance:

VASIM MANSURI(8824) for the Petitioner(s) No. 1,2,3

ANUSHREE NAGARSHETH for the Respondent No.1

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CORAM: HONOURABLE MR. JUSTICE NIKHIL S. KARIEL

Date : 03/08/2026

ORAL JUDGMENT

1. Heard learned advocate Mr.N.V.Gandhi with learned advocate Mr.Vasim Mansuri appearing on behalf of the petitioners and learned advocate Ms.Anushree Nagarsheth appearing on behalf of respondent no.1.

2. Considering the submissions made by learned advocate Mr.Gandhi and learned advocate Ms.Nagarsheth, it would prima facie appear that the present petitioners are aggrieved by an order passed by the learned Arbitral Tribunal inasmuch



as the learned Arbitral Tribunal, according to learned advocate, though has a discretion to continue with the arbitration proceedings or to conduct de novo proceedings, yet, the order of the learned Arbitrator is styled in such a way as if the learned Arbitrator did not have any discretion except to commence the arbitration de novo.

3. Brief background of the present petition being that the parties i.e. the petitioner and the respondents no.2 and 3 were partners in a partnership firm and whereas, on account of some dispute, while the arbitration clause had been invoked vide order dated 05.03.2021 in a Petition under Arbitration Act No. 46/2020, a learned Coordinate Bench of this Court (Hon'ble Ms. Justice Bela M. Trivedi, as Her Lordship then were) had been pleased to appoint one Shri R.N.Patel, Retired Principal District Judge, Patan as the Sole Arbitrator to resolve the dispute between the parties.

3.1. It would appear that the learned Arbitrator having continued the proceedings for a substantial period of time and whereas, even after the mandate of the learned Arbitrator was over on 25.04.2024, vide an order of the very date, the learned Arbitrator had retired as the Sole Arbitrator from the



proceedings in question. It would appear that the present petitioner had approached this Court inter alia praying for order under Section 15(1)(a) for appointing a substitute Arbitrator in place of the Arbitrator who had retired from the matter and whereas, it would appear that vide an order dated 23.08.2024, Hon'ble the Chief Justice had inter alia, while deprecating the conduct of the Arbitrator as unethical, had come to a conclusion that on 25.04.2024, the mandate of the Arbitrator having come to an end, the communication for retirement could not have been issued and whereas, the same was to be ignored. The Hon'ble Court was also of the opinion that the submission of the learned Counsel appearing for the applicant that it is a case falling under Section 15(1)(a) of the Arbitration and Conciliation Act, 1996, is required to be turned down.

3.2. The matter was thereafter adjourned to 13.09.2024 and whereas, vide an order of the said date, the Hon'ble the Chief Justice had permitted the petitioners to withdraw the said application seeking for appointment of a substitute Arbitrator in view of the earlier order dated 25.04.2024 and whereas, liberty to file a fresh petition invoking provision of Section 11



of the Arbitration and Conciliation Act was granted.

3.3. It would appear that vide an order dated 03.10.2023, this Court in an application under the Arbitration Act Petition No.123/2025 had directed appointment of Shri M.K.Dave, Retired District Judge as the Arbitrator. It would be pertinent to note here that the petitioner herein had expressly restricted the scope of the petition to one under Section 11 of the Arbitration and Conciliation Act.

3.4. It would appear that after the appointment of the arbitrator, the petitioners herein had preferred an application before the Arbitrator for appropriate directions and whereas, it would appear that the same was under Section 15 of the Arbitration and Conciliation Act and whereas, it appears to be the contention of the petitioners before the learned Arbitrator that in view of Section 15(3) of the Arbitration Act, the Arbitrator had the discretion either to continue the proceedings or start de novo. It appears that by way of the impugned order dated 27.03.2026, the learned Arbitrator has rejected the said application, aggrieved by which, the petitioners have approached this Court.



4. Heard learned advocate Mr.N.V.Gandhi with learned advocate Mr.Vasim Mansuri appearing on behalf of the petitioners.

4.1. Learned advocate Mr.Gandhi would submit that the learned Arbitrator under Section 15(3) was having a discretion either to continue with the arbitration or to start the proceedings afresh, more particularly, since there was no agreement to the contrary by the parties and whereas, the learned Arbitrator having rejected the application on the ground that the Arbitrator did not have any power at all, is an erroneous exercise of power. Learned advocate would submit that, under such circumstances, the learned Arbitrator was not justified in not accepting the application preferred by the present petitioners.

5. As against the same, learned advocate Ms.Anushree Nagarsheth would vehemently oppose the present petition submitting that the present petition itself is not maintainable.

5.1. Learned advocate would submit that the petitioners, upon the Arbitrator appointed earlier, vide communication dated 25.04.2024 informed as regards his retiring as sole



Arbitrator from the arbitration proceedings, had approached this Court by invoking Section 15(1)(a) of the Arbitration and Conciliation Act, more particularly, for appointment of a substitute Arbitrator. Learned advocate would submit that as such, this Court had not acceded to the request of the petitioner and whereas, the Hon'ble Court was of the opinion that since the Arbitrator had issued communication dated 25.04.2024 retiring from the arbitration after the mandate of the Arbitrator was over, therefore, the said communication was of no consequence and could be ignored. Learned advocate would also point out that since the mandate had expired, the learned Bench had also turned down the request that the petition would be one falling under Section 15(1)(a) of the Arbitration and Conciliation Act.

5.2. Learned advocate would submit that the petitioners had thereafter, as recorded in order dated 20.12.2024, withdrawn the request for appointment of a substitute Arbitrator and had sought permission to file a fresh petition by invoking Section 11 of the Arbitration and Conciliation Act. Learned advocate would submit that vide an order of this Court dated 03.10.2025, a learned Arbitrator had been appointed and



learned Arbitrator has seized of the proceedings. Learned advocate would submit that since the petition preferred under Section 15(1)(a) by the petitioners having been withdrawn, the present petition inter alia questioning the order passed by the learned Arbitrator under Section 15(1)(3), is absolutely misconceived and may not be entertained by this Court.

5.3. Learned advocate would submit that in any case Section 15(3) does not mandatorily require the Arbitrator to continue from the stage when the earlier Arbitrator had stopped, rather, learned advocate would submit that it is the discretion of the successor Arbitrator either to continue with the arbitral proceedings or to conduct the arbitral proceedings denovo. Learned advocate would submit that, that being the case, the learned Arbitrator taking up the proceedings now has decided that the learned Arbitrator would be taking up the matter afresh. Learned advocate would submit that, under such circumstances, there is no substance in the submissions made on behalf of the petitioners and whereas, this Court may not entertain the present petition.

5.4. Learned advocate Ms.Nagarsheth would further submit that as such, this Court may not intervene also taking into



consideration the fact that the order in question was one passed on 27.03.2026 and whereas, the petition is moved in the month of August, 2026. Learned advocate would submit that, in the interregnum, the parties have completed their pleadings and whereas, the matter is now kept on 05.08.2026 i.e. day after tomorrow for framing of issues. Learned advocate would submit that learned Arbitrator having gone to such an advanced stage i.e. the matter being kept for framing of issues after two days, the present petition is nothing but an attempt by the petitioners to derail the arbitral proceedings and whereas, this Court may not intervene. Thus submitting, learned advocate would request this Court to reject this petition.

6. Heard learned advocates for the respective parties and perused the documents on record. The only question which requires consideration is whether order dated 27.03.2026 passed by the learned Arbitrator calls for any interference or not.

6.1. In this regard, at the outset, it requires to be noted that while the petitioners have challenged order dated 27.03.2026 whereby the learned Arbitrator had declined the request of



the petitioners to continue the proceedings from the stage reached by his predecessor and whereas, the case of the petitioners being that the observations of the learned Arbitrator would reflect as if the learned Arbitrator did not have any discretion at all as provided under Section 15(3) of the Arbitration and Conciliation Act. As against the same, it would appear that the learned advocate for the respondent no.1 would contend that the petitioners having approached this Court with a petition whereby, similar prayers had been sought for and whereas, the petition having been withdrawn by the petitioners, it would now not be open for the petitioners to approach the learned Arbitrator with the very request and upon the same being turned down, approach this Court again. Learned advocate would also submit that as such, Section 15(3) inter alia envisages discretion being left with the learned Arbitrator and whereas, Arbitrator having exercised his discretion in favour of continuing de novo proceedings and the proceedings having continued approximately four months after the order of the learned Arbitrator, there would not be any reason for this Court to intervene in the arbitral proceedings.



6.2. To this Court, it would appear that the submissions made by learned Counsel for the respondent require acceptance and whereas, to this Court, it would appear that the petition itself is misconceived and whereas, the same does not require to be entertained at all.

7. The reasons for this Court to come to such a conclusion is as per the discussion hereinbelow:-

7.1. At the first instance, it would be apposite to refer to Section 15 of the Arbitration Act being relevant for the present purpose, is reproduced hereinbelow:-

“15. Termination of mandate and substitution of arbitrator.—

(1) In addition to the circumstances referred to in section 13 or section 14, the mandate of an arbitrator shall terminate—

(a) where he withdraws from office for any reason; or

(b) by or pursuant to agreement of the parties.

(2) Where the mandate of an arbitrator terminates, a substitute arbitrator shall be appointed according to the rules that were applicable to the appointment of the arbitrator being replaced.

(3) Unless otherwise agreed by the parties, where an arbitrator is replaced under sub-section (2), any hearings previously held maybe repeated at the discretion of the arbitral tribunal.



(4) Unless otherwise agreed by the parties, an order or ruling of the arbitral tribunal made prior to the replacement of an arbitrator under this section shall not be invalid solely because there has been a change in the composition of the arbitral tribunal.”

7.2. It would appear that the petitioners being aggrieved by the communication dated 25.04.2024 by the earlier Arbitrator whereby he had sought to retire from the proceedings, had approached this Court under Section 15(1)(a) seeking that a substitute Arbitrator may be appointed in terms of Section 15(2) of the Act. It would appear that the learned Coordinate Bench, not having acceded to the request of the present petitioners, as could be noted in order dated 23.08.2024, vide an order dated 20.12.2024, the petitioners had withdrawn the said petition with liberty to file a fresh petition by invoking provision of Section 11 of the Arbitration and Conciliation Act.

7.3. Considering the same from the perspective of the scheme as laid down in the statute, it would appear that Section 15 inter alia states that the mandate of an Arbitrator would terminate (i) when the Arbitrator withdraws from the office, and (ii) when the parties agree to the same. Section 15(2) inter alia continues by stating that when the mandate of an Arbitrator has terminated, a substitute Arbitrator could be



appointed according to the Rules that were applicable to the appointment of the Arbitrator being replaced. Section 15(3) being that if the parties had not agreed to the contrary, when the Arbitrator had been replaced under sub-section (2), then any hearing previously held may be repeated at the discretion of the Arbitral Tribunal.

7.4. To this Court, it would appear that Section 15(3) contemplates discretion at the end of an Arbitrator, only if the said Arbitrator is replaced under sub-section (2). In the instant case, it would appear that the petitioners having preferred a petition seeking under Section 15(1)(a) that is to state that upon the Arbitrator withdrawing/retiring from his office, the petitioners wanted a substitute Arbitrator to be appointed and whereas, the petition having been withdrawn, there was no occasion for the present petitioners to have even approached the Arbitrator for continuing the arbitral proceedings from the stage which it had reached before the previous Arbitrator much-less the petitioners having any right to approach this Court with the present petition. To this Court, it would appear that the right available to a party or right available to an Arbitrator under Section 15(3) would be



invocable only upon the Arbitrator being appointed under Section 15(2). In the instant case, learned Arbitrator having been appointed under Section 11(6) of the Arbitration and Conciliation Act, therefore, the proceedings before the present learned Arbitrator was a complete new proceeding, distinct and having no co-relation with the earlier proceedings, therefore, the request of the petitioners for continuing of the proceedings as per Section 15(3) of the Arbitration and Conciliation Act itself was completely unfounded.

7.5. To this Court, it would appear that the learned Arbitrator has at paragraph no.7 of the order dated 27.03.2026 observed as thus:-

“7. Held by the Hon'ble High Court in the above matter the case of the claimant falling under Section 15(1)(a) of the Act was turned down, and therefore, on next date the matter was withdrawn instead of filing the detailed affidavit as directed by the Hon'ble High Court in the said order. Thereafter, the claimant was pleased to prefer fresh petition under Section 11(6) of the Act which was granted for the limited purpose and the present arbitral tribunal is constituted. In view of the proceeding initiated by the claimant and considering outcome of the said proceeding, this Tribunal is of the opinion that the Hon'ble High Court was pleased to put an end of the earlier proceeding initiated by the parties and constituted the present arbitral tribunal for a fresh



adjudication of the issues involved among the parties. In view of the outcome of the proceeding initiated by the claimant, this Tribunal is of the opinion that the request of the claimant to continue the proceeding from the stage reached by the predecessor and further conducted from the stage it was stopped, cannot be accepted."

7.6. Learned Arbitrator having observed that once the petitioners having withdrawn his petition under Section 15(1) (a) of the Act and having been permitted to file a fresh petition under Section 11(6) of the Arbitration Act and whereas, the order of this Court whereby the learned Arbitrator having been appointed being under Section 11(6) of the Act was a fresh appointment and therefore, the request of the claimant to continue the proceedings from the stage reached by the predecessor could not be accepted, appears to be well founded.

7.7. Again, what would be too obvious to be missed out is the fact that even in order dated 03.10.2025, this Court has clearly recorded the statement of learned advocate for the petitioners therein – petitioners herein that the scope of the proceeding be restricted to one under Section 11 only. Thus, there could be no iota of doubt, not at least to the petitioners that, the proceedings before the learned Arbitrator appointed



vide order dated 03.10.2025 was a distinct and fresh proceedings without any reference to the old proceedings.

7.8. Furthermore, to this Court, it would clearly appear as per the scheme of Section 15, as discussed hereinabove, that an application under Section 15(3) could only have been preferred if the learned Arbitrator having been appointed under Section 15(2). The learned Arbitrator having been appointed under Section 11(6) of the Arbitration and Conciliation Act, the application before the learned Arbitrator itself could not have been maintained.

8. For the foregoing observations, discussion and findings, the present application before this Court being absolutely misconceived, the same stands disposed of as rejected.

(NIKHIL S. KARIEL,J)

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