

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. _____ OF 2026
(arising out of SLP(C) NO.10602/2026)

K. RAMABHADRAN

APPELLANT(S)

VERSUS

M/S. LUXURY SANDS KERALA PRIVATE LIMITED & RESPONDENT(S)
ORS.

O R D E R

1. Leave granted.

2. The instant appeal arises out of the Impugned Order dated 30.06.2025 passed by the High Court of Kerala at Ernakulam ("High Court") in Arbitration Request No. 150/2024, whereby the Appellant's application under Section 11(6) of the Arbitration and Conciliation Act, 1996 ("the Act") for appointment of a Sole Arbitrator was dismissed on the ground that the claim was *ex facie* and hopelessly time-barred.

3. To reiterate the facts briefly, the Appellant entered into a Memorandum of Understanding ("MoU") dated 24.06.2009 with Respondent No. 1, represented by Respondent No. 2 as its Managing Director, for purchase of a metal crusher unit together with approximately 35 acres of quarry land at Elanji, Ernakulam District, for a total consideration of Rs. 17.15 crores. For this, the Appellant paid an advance of Rs. 10 lakhs. The initial time of performance was upto 10.08.2009 which was extended till 30.11.2009 by a further MoU dated 06.11.2009, pursuant to which the Appellant paid an additional advance sale consideration of Rs. 1 crore. Clause 20 of the MoU dated 24.06.2009 stipulates

that "any dispute arising out of the MoU is to be settled by arbitration".

4. It is the Appellant's case that disputes arose when it was discovered that the Respondents possessed only about 20 acres of the subject land, instead of the agreed-upon 35 acres, which led to the Appellant's inability to purchase the property within the extended time. Accordingly, the Appellant filed Arbitration O.P. No. 266/2010 under Section 9 of the Act before the District Judge, Ernakulam, seeking an injunction against the Respondents from alienating the subject property. This petition came to be dismissed on 17.04.2010 as there was no valid arbitration clause.

5. The Appellant challenged this order through Arbitration Appeal No. 26/2010 before the High Court, aggrieved by the finding regarding the non-existence of a valid arbitration clause. Vide the judgment dated 22.06.2023, the High Court clarified that the District Court's finding concerning the validity of the arbitration clause was only a *prima facie* opinion and shall not bind the parties in subsequent proceedings.

6. Pursuant to this clarification, the Appellant issued a Notice Invoking Arbitration dated 02.04.2024 to the Respondents, proposing the name of a Sole Arbitrator and seeking a refund of the advance amount of Rs. 1.10 crores with interest at the rate of 18% p.a., as well as damages/costs.

7. The Respondents, however, through a reply dated 16.04.2024 denied any breach of the MoU, asserted that the claim was time-

barred, and claimed that there was no valid arbitration clause. This prompted the Appellant to file Arbitration Request No. 150/2024 under Section 11(6) of the Act before the High Court, which came to be dismissed *vide* the impugned judgment dated 30.06.2025, relying on this Court's decision in *Aslam Ismail Khan Deshmukh v. ASAP Fluids Pvt. Ltd.*, (2025) 1 SCC 502.

8. We have heard learned counsel for the parties and perused the material placed on record.

9. The existence of Clause 20 of the MoU dated 24.06.2009, providing for reference of disputes to arbitration is not in dispute. Indeed, the High Court, while disposing of Arbitration Appeal No. 26/2010 *vide* the judgment dated 22.06.2023, has itself held that the District Court's doubts regarding the validity of the arbitration clause were only *prima facie* observations in proceedings under Section 9 of the Act and were not binding on subsequent proceedings. Therefore, having regard to the limited scope of enquiry contemplated under Section 11(6) of the Act, we are of the view that the question of limitation raised by the Respondents, being an arbitrable question dependent upon appreciation of facts, ought to be left for determination by the Arbitral Tribunal.

10. In view of the facts and circumstances recorded above, the instant appeal is allowed and the Impugned Order is set aside. We, accordingly, appoint Hon'ble Mr. Justice A. M. Shaffique, former Judge of the High Court of Kerala as the Sole Arbitrator to adjudicate the disputes between the parties arising out of the MoUs dated 24.06.2009 and 06.11.2009,

including the question of limitation raised by the Respondents,
which is left open for determination by the learned Arbitrator.
The seat and venue of arbitration shall be Ernakulam, Kerala.

11. The Arbitrator shall have the liberty to fix his own
fees.

.....CJI.
(SURYA KANT)

.....J.
(JOYMALYA BAGCHI)

.....J.
(V. MOHANA)

NEW DELHI;
AUGUST 07, 2026

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s).10602/2026

[Arising out of impugned final judgment and order dated 30-06-2025 in AR No.150/2024 passed by the High Court of Kerala at Ernakulam]

K. RAMABHADRAN

Petitioner(s)

VERSUS

M/S. LUXURY SANDS KERALA PRIVATE LIMITED & ORS. Respondent(s)

IA No. 66047/2026 - CONDONATION OF DELAY IN REFILEING/CURING THE DEFECTS

Date : 07-08-2026 This matter was called on for hearing today.

CORAM : HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE JOYMALYA BAGCHI
HON'BLE MRS. JUSTICE V. MOHANA

For Petitioner(s) :Mr. Santhosh Krishnan, Adv.
Mr. Mohammed Sadique T.A., AOR
Mr. Jolly John, Adv.
Mr. Alim Anvar, Adv.
Mr. Santhosh K, Adv.
Mrs. Devika A.L., Adv.

For Respondent(s) :Mr. Romy Chacko, Sr. Adv.
Mr. Akshat Singh, Adv.
Mr. Ashwin Romy, Adv.
Mr. Sachin Singh Dalal, Adv.
Mr Rahul Jain, AOR

Mr. Joseph Markos, Sr. Adv.
Mr. Atul Shankar Vinod, AOR
Mr. Simren Parel, Adv.

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

1. Leave granted.
2. The appeal is allowed in terms of the signed order.
3. All pending applications, if any, also stand disposed of.

(ARJUN BISHT)

ASTT. REGISTRAR-cum-PS

(signed order is placed on the file)

(PREETHI DILEEP KUMAR)

DY. REGISTRAR