



Neutral Citation Number: [2015] EWHC 998 (Comm)

Case No: 2013 Folio 355

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
COMMERCIAL COURT

Rolls Building
Fetter Lane
London
EC4A 1NL
Date: 23/04/2015

Before :
THE HON MR JUSTICE WALKER

IN AN ARBITRATION CLAIM BETWEEN :

SADRUDDIN HASHWANI
- and -
NURDIN JIVRAJ

Claimant

Defendant

ANNEX 1A TO THE MAIN JUDGMENT:

Abbreviations and short forms, sorted by short form

Abbreviation/short form	Long form	Notes
1950 Act	Arbitration Act 1950	
1990 agreement	See Ahamed arbitration agreement	
2003 Regulations	2003 Employment Equality (Religion or Belief) Regulations 2003	
2008 purported appointment	2008 purported appointment under which in July 2008 Mr Hashwani purported to appoint Sir Anthony Colman as an arbitrator under article 8 of the JVA	See main judgment, section A.
2013 claim	claim form and draft order in the present proceedings	The 2013 claim was issued on 12 March 2013.
abeyance assertion	abeyance assertion made by Mr Hashwani	The abeyance assertion is described in section B2.2 of the main judgment.
Aga Khan	Aga Khan	Spiritual leader of the Ismaili faith. Also referred to as Hazar Imam.
Aga Khan SIICAB	Aga Khan Shia Imami International Conciliation and Arbitration Board	Also known as ICAB.
Ahamed arbitration	arbitration under the Ahamed arbitration agreement	See main judgment, section B2
Ahamed arbitration agreement	arbitration agreement made in July 1990 between Mr Hashwani and Mr Jivraj (described as “the investors”) and Mr Ahamed	Mr Jivraj describes the Ahamed arbitration agreement as “the 1990 agreement”.
Ahamed, Mr	Ahamed, Mr Zaher	Sole arbitrator under the Ahamed arbitration agreement..
Ahmed, Mr	Ahmed, Mr Mahmood	Partner in Evans Dodd.
answer on remedies and grounds	answer on remedies and grounds served by Mr Jivraj on 27 September 2013 in answer to Mr Hashwani’s statement of remedies and grounds	See main judgment, section A.
April 1994 clarification letter	April 1994 clarification letter written by Mr Ahamed on 7 April 1994 to the parties	See Annex 2, section A2/E.
April 1995 defeat	April 1995 defeat letter	See Annex 2, section A2/E.

Abbreviation/short form	Long form	Notes
letter	dated 19 April 1995 written by Mr Ahamed to the parties	
April 2002 closure of investigations letter	April 2002 closure of investigations letter written by Mr TM Ghumman of the NAB.	See main judgment, section B4.
Arbitrator	Arbitrator was the term used in the Ahamed arbitration agreement to describe Mr Ahamed	See Annex 2, section A2/C.
Arix	Arix Holding BV	Described by Mr Hashwani as “my company”: see paragraph 19 of Hashwani 2013.
August 1995 disengagement letter	August 1995 disengagement letter written by Mr Hashwani to Mr Ahamed on 7 August 1995	See Annex 2, section A2/F.
August 1995 recommendation letter	August 1995 recommendation letter written by Mr Ahamed to the parties on 14 August 1995	See Annex 2, section A2/F.
August 1995 tax imbalance letter	August 1995 disengagement letter written by Mr Jivraj to Mr Hashwani on 31 August 1995	See Annex 2, section A2/G.
Baldry, Mr	Mr Tony Baldry MP	An English barrister. Mr Zaiwalla states that in 2008 he had organized a trip to travel to the United States with Mr. Tony Baldry MP (now Sir Tony Baldry MP) to meet Mr Ahamed: see section A2/L of Annex 2.
BDO	BDO Stoy Hayward	Auditors of PHPI
Berkson 2008	Berkson 2008 witness statement made by Mr Berkson in the October 2008 claim on 2 October 2008	
Berkson 2013	Berkson 2013 witness statement made by Mr Berkson in the 2013 claim on 26 September 2013	

Abbreviation/short form	Long form	Notes
Berkson, Mr	Berkson, Mr Jonathan	Partner in Hill Dickinson and subsequently in Bermans
Bermans	Bermans LLP	Solicitors in Liverpool acting for Mr Jivraj in succession to Hill Dickinson
Bhanji, Mr	Bhanji, Mr Abdul	Described by Mr Zaiwalla at paragraph 14 of Zaiwalla 2014 as a respected member of the Ismaili community and as being “of the accountancy firm ... Coopers & Lybrand”.
Centre Point Canada	Centre Point Holdings (Canada) Ltd	See NI Canada.
combined admitted claims	admitted claims set out in Appendix A to the July 1990 directions	
Community, the	Community of Shia Imami Ismaili Muslims	See section B1 of the main judgment.
December 1993 award	December 1993 award by Mr Ahamed	See main judgment, section B3.
December 1993 schedule	December 1993 schedule forming part of the December 1993 award	See main judgment, section B3.
December 1994 factual position and responsibility letter	December 1994 factual position and responsibility letter dated 17 December 1994 written by Mr Ahamed to the parties	See Annex 2, section A2/E
December 1995 freedom request letter	December 1995 freedom request letter dated 9 December 1995 written by Mr Hashwani to Mr Ahamed	See Annex 2, section A2/G
December 1995 PHPI winding up letter	December 1995 PHPI winding up letter dated 14 December 1995 written by Mr Ahamed to the parties	See Annex 2, section A2/G
December 1996 third party letter	December 1996 third party letter dated 19 December 1996 written by Mr Ahamed to the parties	See Annex 2, section A2/H
Disputes	Disputes was the term used in the Ahamed arbitration agreement to describe all disputes and issues directly or indirectly relating to the Investors or any Body [as	See Annex 2, section A2/C.

Abbreviation/short form	Long form	Notes
	defined in clause 12] relating to either of them	
Evans Dodd	Evans Dodd Solicitors	Solicitors previously acting for Mr Jivraj
extant arbitration assumption	assumption that the arbitration before Mr Ahamed was still extant during the period under discussion	See section 3.1 of the main judgment.
February 1990 determinations	February 1990 determinations made by the panel acting as conciliators	The February 1990 determinations were set out in a schedule in the panel's letter dated 6 February. See annex 2, section .
February 1990 equalisation determination	February 1990 determination made by the Panel under the heading "Partnership Capital Accounts" at paragraph 10 of the February 1990 determinations	See annex 2, section A2/C.
February 1994 tax liability and timetable letter	February 1994 letter dated 3 February 1994 sent by Mr Ahamed to the parties	See Annex 2, section A2/E.
February 1996 PHPI and clarification fax	February 1996 PHPI and clarification fax dated 19 February 1996 sent by Mr Ahamed to Mr Jivraj	See Annex 2, section A2/G.
FIRPTA	Foreign Investment in Real Property Tax Act 1980 (a federal statute of the USA)	Definition found in Pannell Kerr Forster's draft letter of 27 February 1989. See Annex 2, section A2/C.
Florida litigation	Florida litigation: proceedings issued by Rushlake Holdings against Mr Jivraj and others on 4 April 1990 in the Circuit Court for Orange County, Florida	
Ghumman, Mr	Ghumman, Mr TM	Director General of the Financial Crimes Investigating Wing of the NAB, and signatory of the April 2002 closure of investigations letter.
grounds of opposition	grounds of opposition relied on by Mr Jivraj in his skeleton argument and at	See main judgment, section A.

Abbreviation/short form	Long form	Notes
	the hearing	
GSC	See GSC Solicitors	
GSC Solicitors	GSC Solicitors	London lawyers instructed by Naaz Holdings.
Hafner, Mr	Hafner, Mr Luc	Hira's lawyer in Switzerland.
Hashwani 2013	Witness statement in the present claim made by Mr Hashwani on 12 March 2013	
Hashwani, Mr	Hashwani, Mr Sadruddin	Claimant in 2013 Folio 355.
Hashwani, Mrs	Hashwani, Mrs Noorsultan	Mr Hashwani's wife.
Hayes, Mr	Hayes, Mr Roland	Adviser to Mr Jivraj.
Hazar Imam	See Aga Khan	
higher corporate tier acquisition	An arrangement under which Mr Hashwani or a company under his control acquired the entire issued share capital of Jivji BV, the joint venture company which had owned, and would continue to own, the North American operating companies	See main judgment, section D2.
Hill Dickinson	Hill Dickinson LLP	Former solicitors for Mr Jivraj.
Hira	Hira Foundation	Mr Hashwani's family trust; owner of the A shares in PHPI.
Hira Trust	See Hira	
ICAB	Ismaili International Conciliation and Arbitration Board	Also known as Aga Khan SIICAB.
implementation award	an award as to what was required in order to implement the December 1993 award	See section 3.2 of the main judgment.
Investors	Investors was the term used in the Ahamed arbitration agreement to describe Mr Jivraj and Mr Hashwani	See Annex 2, section A2/C.
Jaffar, Mr	See Jaffer, Mr	In correspondence the parties used the spelling "Jaffar", but in the panel agreement and in the February 1990 determination the spelling "Jaffer" is used.
Jaffer, Mr	Jaffer, Mr Mahomed	Member of the Panel, appointed by Mr Jivraj.

Abbreviation/short form	Long form	Notes
Jamat	Jamat was the term used in the Ahamed arbitration agreement to refer to the Community	See Annex 2, section A2/C.
January 1994 reflection request letter	January 1994 letter written on 4 January 1994 by Mr Ahamed to the parties	In the January 1994 reflection request letter Mr Ahamed asked the parties to reflect further on what should happen to Jivji BV.
January 1996 'cannot get involved' fax	January 1996 'cannot get involved' fax dated 19 January 1996 sent by Mr Ahamed to the parties	See Annex 2, section A2/G.
January 1998 deadline letter	January 1998 deadline letter dated 1 January 1998 written by Mr Hashwani to Mr Ahamed	See Annex 2, section A2/J.
Jivji BV	Jivji Holdings B.V.	Dutch company wholly owned by Jivji NV. Jivji BV was the owner of NI Canada, Rushlake USA, and Rushlake Holdings.
Jivji NV	Jivji Holdings N.V.	Company domiciled in the Netherlands Antilles, wholly owned by PHPI. Jivji NV was the owner of Jivji BV.
Jivraj, Mr	Jivraj, Mr Nurdin	Defendant in 2013 Folio 355.
Jivraj, Mr Naushad	Jivraj, Mr Naushad	Son of Mr Nurdin Jivraj.
July 1990 directions	further directions given by Mr Ahamed on 16 July 1990	
July 1995 BDO draft report	BDO draft report produced on 24 July 1995 by BDO Stoy Hayward on PHPI's consolidated financial statements for the years ended 31 December 1985 to 31 December 1993	See Annex 2, section A2/F.
July 1996 implementation for the parties fax	July 1996 implementation for the parties fax dated 19 July 1996 sent by Mr Ahamed to Mr Jivraj and Mr Hashwani	See Annex 2, section A2/H.
July 1997 arbitration reference letter	July 1997 arbitration reference letter dated 8 July 1997 written by Mr Ahamed to both parties	See Annex 2, section A2/H.
July 1997 top priority	July 1997 top priority fax	See Annex 2, section A2/H.

Abbreviation/short form	Long form	Notes
fax	dated 16 July 1997 sent by Mr Hashwani to Mr Ahamed	
June 1995 MoA	Memorandum of Agreement, dated 6 June 1995, signed by Mr Jivraj and Mr Hashwani.	See Annex 2, section A2/F.
June 1997 ‘arbitration has become a joke’ letter	June 1997 ‘arbitration has become a joke’ letter written by Mr Hashwani to Mr Ahamed on 27 June 1997	See Annex 2, section A2/H.
June 2000 \$4m demand letter	June 2000 \$4m demand letter dated 14 June 2000 written by GSC Solicitors to Mr Hafner	See Annex 2, section A2/K.
JV	joint venture between Mr Hashwani and Mr Jivraj	
JVA	Joint Venture Agreement between Mr Hashwani and Mr Jivraj made on 29 January 1981	See main Judgment, section A.
JVA arbitration agreement	arbitration agreement set out in article 8 of the JVA	See main Judgment, section A.
JVA qualification requirement	qualification requirement set out in article 8(1) of the JVA arbitration agreement	See main Judgment, section A.
Lord Clarke’s judgment	the judgment of Lord Clarke of Stone-cum-Ebony JSC in <i>Hashwani v Jivraj</i> [2012] UKSC 40, [2011] 1 WLR 1872.	
March 1994 Hashwani fax	March 1994 Hashwani fax sent on 17 March 1994 by Mr Hashwani to Mr Ahamed	
March 1994 Jivraj letter	March 1994 Jivraj letter written on 10 March 1994 by Mr Jivraj to Mr Ahamed	
Motani, Mr	Motani, Mr Habib	Described by Mr Zaiwalla at paragraph 14 of Zaiwalla 2014 as a respected member of the Ismaili community and as being “of Clifford Chance solicitors”.
Naaz	See Naaz Holdings and NI Canada	Mr Hashwani’s WS dd 12 March 2013 in the present claim, para 7, uses “Naaz” to

Abbreviation/short form	Long form	Notes
		refer to NI Canada, but warns at para 8 that this should not be confused with Naaz Holdings.
Naaz Holdings	Naaz Holdings Limited	Mr Jivraj's investment company, incorporated in Jersey; owner of the B shares in PHPI.
NAB	National Accountability Bureau of Pakistan	The NAB issued the April 2002 closure of investigations letter.
Nanji, Mr	Nanji, Mr Noordin	Official of the Ismaili community.
Nathoo, Mr	Mr Nathoo, Niaz	Member of the Panel in his capacity as President of the UK Council.
NI Canada	Naaz Investments Limited (Canada)	Canadian corporation (later called Centre Point Holdings (Canada) Ltd) which held the JV's properties in Canada.
November 1993 alternatives letter	November 1993 letter written on 20 November 1993 by Mr Ahamed to the parties	In the November 1993 alternatives letter Mr Ahamed identified 3 alternatives as to what should happen to Jivji BV. See Annex 2 section A2/D.
November 1994 expectation letter	November 1994 expectation letter dated 19 November 1994 written by Mr Ahamed to Mr Hashwani and Mr Jivraj	See Annex 2 section A2/E.
November 1995 'whiter than white' fax	November 1995 'whiter than white' fax dated 15 November 1995 sent by Mr Jivraj to Mr Ahamed	See Annex 2, section A2/G.
November 1996 facilitation fax	November 1996 facilitation fax dated 12 November 1996 sent by Mr Ahamed to the parties	See Annex 2, section A2/H.
November 1996 guidance and pressure fax	November 1996 guidance and pressure fax dated 6 November 1996 sent by Mr Hashwani to Mr Ahamed	See Annex 2, section A2/H.
November 2008 claim	November 2008 claim brought by Mr Hashwani against Mr Jivraj on 13 November 2008, 2008 Folio 1182	The November 2008 claim sought an order that Sir Anthony Colman be appointed sole arbitrator.

Abbreviation/short form	Long form	Notes
Nurdinbhai	Mr Jivraj	See main judgment, section A.
Observations	Observations [1] to [6] about the Community	Observations [1] to [6] are set out in section B of the main judgment.
October 1995 formal response letter	October 1995 formal response letter dated 13 October written by Mr Jivraj to Mr Ahamed	See Annex 2, section A2/G.
October 1995 personal points fax	October 1995 personal points fax dated 16 October 1995 sent by Mr Jivraj to Mr Ahamed	See Annex 2, section A2/G.
October 1995 'you must convince me' letter	October 1995 'you must convince me' letter dated 14 October 1995 written by Mr Ahamed to Mr Jivraj	See Annex 2, section A2/G.
October 1995 'should make ... payment now' letter	October 1995 'should make ... payment now' letter dated 23 October written by Mr Ahamed to the parties	See Annex 2, section A2/G.
October 1996 'I cannot stop you' fax	October 1996 'I cannot stop you' fax dated 30 October 1996 sent by Mr Jivraj to Mr Hashwani and copied to Mr Ahamed	See Annex 2, section A2/H.
October 1996 proposed indemnity letter	October 1996 proposed indemnity letter dated 1 October 1996 written by Mr Ahamed to the parties	See Annex 2, section A2/H.
October 1996 request for freedom letter	October 1996 request for freedom letter dated 22 October 1996 written by Mr Hashwani to Mr Ahamed	See Annex 2, section A2/H.
October 1998 end to misery letter	October 1998 end to misery letter dated 1 October 1998 written by Mr Hashwani to Dr Sachedina	See Annex 2, section A2/J.
October 2000 'outrageous professional conduct' letter	October 2000 'outrageous professional conduct' letter dated 18 October 2000 written by Zaiwallas to GSC Solicitors	See Annex 2, section A2/K.
October 2000 'will consider the matter further' fax	October 2000 'will consider the matter further' fax dated 20 October sent by GSC Solicitors to Zaiwallas	See Annex 2, section A2/K.
October 2000 'you	October 2000 'you will	See Annex 2, section A2/K.

Abbreviation/short form	Long form	Notes
will have no objection' letter	have no objection' letter dated 5 October written by GSC Solicitors to Mr Hafner and copied to Mr Hashwani and to Hira	
October 2008 claim	October 2008 claim brought by Mr Jivraj against Mr Hashwani on 3 October 2008, 2008 Folio 1028	The October 2008 claim sought a declaration that that Mr Hashwani's nomination of Sir Anthony Colman as arbitrator was invalid.
Panel	Panel comprising Mr Pirani, Mr Jaffer, and Mr Nathoo	
Panel Agreement	Panel Agreement dated 30 October 1988 made between Mr Hashwani and Mr Jivraj	Under the Panel Agreement the Panel were to "conciliate and arbitrate" between the parties and assist in determining how to terminate the joint venture.
PHPI	Park Hotels & Properties International Ltd	Registered as a limited liability company in Jersey on 2 August 1984. Owner of Jivji NV.
Pirani, Mr	Pirani, Mr Pyarali	Member of the Panel, appointed by Mr Hashwani.
possible different bid assertion	possible different bid assertion made by Mr Jivraj	The possible different bid assertion was discussed by Mr Ahamed in the January 1994 reflection request letter.
PP	See Pirani, Mr	
Pre-Conditions	document setting out terms which the Aga Khan in 1990 directed that the parties should adopt in resolving all their disputes before a sole arbitrator.	See main Judgment, section B2.2.
Pre-Conditions arbitration agreement	Pre-Conditions arbitration agreement: term used by Mr Hashwani to describe an agreement which he says that he and Mr Jivraj entered into in 1990	See Hashwani 2013, heading prior to para 28, and para 36.
replacement arbitrator assertion	assertion that the Ahamed arbitration was live and could be progressed by appointing a replacement arbitrator	See section C of the main judgment.
Rushlake Holdings	Rushlake Holdings Ltd	An English company which

Abbreviation/short form	Long form	Notes
		held the JV's properties in England. Wholly owned by Jivji BV.
Rushlake USA	Rushlake Hotels (USA) Inc	Mr Hashwani's WS dd 12 March 2013 in the present claim, para 7.5, describes it as "a United States corporation, which held the JV's properties in the United States".
Sachedina, Dr	Sachedina, Dr Aitmadi Shafik	Official of the Ismaili community.
Sadrubhai	Mr Hashwani	See main judgment, section A.
September 1995 expectation letter	September 1995 letter written by Mr Ahamed to the parties on 22 September 1995	See Annex 2, section A2/G.
September 1999 Naaz Holdings PHPI letter	September 1999 Naaz Holdings letter dated 1 September 1999 written by Mr Jivraj to Mr Hashwani and Mr Luc Hafner	See Annex 2, section A2/K.
September 1999 'kindly search your soul' letter	September 1999 'kindly search your soul' letter dated 8 September 1999 written by Mr Hashwani to Mr Jivraj and Naaz Holdings	See Annex 2, section A2/K.
SNAV	Specified Net Asset Value	SNAV was the amount offered in bids made for the joint venture assets as directed by the Panel.
statement of remedies and grounds	statement of remedies and grounds served by Mr Hashwani on 2 August 2013	See main judgment, section A, and Annex 2, section A2/N.
Stoy Hayward	Stoy Hayward: see BDO	
TFEU	Treaty on the Functioning of the European Union	
timing request	timing request by Mr Ahamed at the end of paragraph [4] of the April 1994 clarification letter, asking to be informed of the proposed timing of the transfer of Jivji NV and Jivji BV	See main judgment, section B4.1.

Abbreviation/short form	Long form	Notes
UK Council	H.H. Aga Khan National Council for the United Kingdom	
Zaherbhai	Mr Ahamed	See main judgment, section A.
Zaiwalla 2008	Zaiwalla 2008 witness statement, made on 13 November 2008 by Mr Zaiwalla.	Paragraph 6 of Zaiwalla 2008 said that it was made to deal with the issues in both the October 2008 claim and the November 2008 claim.
Zaiwalla 2013	Zaiwalla 2013 witness statement, made on 25 October 2013 by Mr Zaiwalla in the present claim.	
Zaiwalla 2014	Zaiwalla 2014 witness statement, made on 11 September 2014 by Mr Zaiwalla in the present claim.	
Zaiwalla, Mr	Zaiwalla, Mr Sarosh	Mr Hashwani's solicitor. Senior partner of Zaiwallas.
Zaiwallas	The firm now known as Zaiwalla & Co LLP and previously known as Zaiwallas Solicitors	Solicitors instructed by Mr Hashwani.