



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 1B TO THE MAIN JUDGMENT:

Abbreviations and short forms, sorted by long form

Long form	Abbreviation/short form	Notes
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	2008 purported appointment	See main judgment, section A.
abeyance assertion made by Mr Hashwani	abeyance assertion	The abeyance assertion is described in section B2.2 of the main judgment.
admitted claims set out in Appendix A to the July 1990 directions	combined admitted claims	
Aga Khan	Aga Khan	Spiritual leader of the Ismaili faith. Also referred to as Hazar Imam.
Aga Khan Shia Imami International Conciliation and Arbitration Board	Aga Khan SIICAB	Also known as ICAB.
Ahamed, Mr Zaher	Ahamed, Mr	Sole arbitrator under the Ahamed arbitration agreement..
Ahmed, Mr Mahmood	Ahmed, Mr	Partner in Evans Dodd.
answer on remedies and grounds served by Mr Jivraj on 27 September 2013 in answer to Mr Hashwani's statement of remedies and grounds	answer on remedies and grounds	See main judgment, section A.
April 1994 clarification letter written by Mr Ahamed on 7 April 1994 to the parties	April 1994 clarification letter	See Annex 2, section A2/E.
April 1995 defeat letter dated 19 April 1995 written by Mr Ahamed to the parties	April 1995 defeat letter	See Annex 2, section A2/E.
April 2002 closure of investigations letter written by Mr TM Ghumman of the NAB.	April 2002 closure of investigations letter	See main judgment, section B4.
Arbitration Act 1950	1950 Act	
arbitration agreement made in July 1990 between Mr Hashwani and Mr Jivraj (described as "the investors") and Mr Ahamed	Ahamed arbitration agreement	Mr Jivraj describes the Ahamed arbitration agreement as "the 1990 agreement".

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arbitration agreement set out in article 8 of the JVA	JVA arbitration agreement	See main Judgment, section A.
arbitration under the Ahamed arbitration agreement	Ahamed arbitration	See main judgment, section B2
Arix Holding BV	Arix	Described by Mr Hashwani as “my company”: see paragraph 19 of Hashwani 2013.
assertion that the Ahamed arbitration was live and could be progressed by appointing a replacement arbitrator	replacement arbitrator assertion	See section C of the main judgment.
assumption that the arbitration before Mr Ahamed was still extant during the period under discussion	extant arbitration assumption	See section 3.1 of the main judgment.
August 1995 disengagement letter written by Mr Hashwani to Mr Ahamed on 7 August 1995	August 1995 disengagement letter	See Annex 2, section A2/F.
August 1995 disengagement letter written by Mr Jivraj to Mr Hashwani on 31 August 1995	August 1995 tax imbalance letter	See Annex 2, section A2/G.
August 1995 recommendation letter written by Mr Ahamed to the parties on 14 August 1995	August 1995 recommendation letter	See Annex 2, section A2/F.
award as to what was required in order to implement the December 1993 award	implementation award	See section 3.2 of the main judgment.
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	July 1995 BDO draft report	See Annex 2, section A2/F.
BDO Stoy Hayward	BDO	Auditors of PHPI
Berkson 2008 witness statement made by Mr	Berkson 2008	

Long form	Abbreviation/short form	Notes
Berkson in the October 2008 claim on 2 October 2008		
Berkson 2013 witness statement made by Mr Berkson in the 2013 claim on 26 September 2013	Berkson 2013	
Berkson, Mr Jonathan	Berkson, Mr	Partner in Hill Dickinson and subsequently in Bermans
Bermans LLP	Bermans	Solicitors in Liverpool acting for Mr Jivraj in succession to Hill Dickinson
Bhanji, Mr Abdul	Bhanji, Mr	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 Holdings (Canada) Ltd	Centre Point Canada	See NI Canada.
claim form and draft order in the present proceedings	2013 claim	The 2013 claim was issued on 12 March 2013.
Community of Shia Imami Ismaili Muslims	Community, the	See section B1 of the main judgment.
December 1993 award by Mr Ahamed	December 1993 award	See main judgment, section B3.
December 1993 schedule forming part of the December 1993 award	December 1993 schedule	See main judgment, section B3.
December 1994 factual position and responsibility letter dated 17 December 1994 written by Mr Ahamed to the parties	December 1994 factual position and responsibility letter	See Annex 2, section A2/E
December 1995 freedom request letter dated 9 December 1995 written by Mr Hashwani to Mr Ahamed	December 1995 freedom request letter	See Annex 2, section A2/G
December 1995 PHPI winding up letter dated 14 December 1995 written by Mr Ahamed to the parties	December 1995 PHPI winding up letter	See Annex 2, section A2/G
December 1996 third party letter dated 19 December 1996 written by Mr Ahamed to the parties	December 1996 third party letter	See Annex 2, section A2/H

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Employment Equality (Religion or Belief) Regulations 2003	2003 Regulations	
Evans Dodd Solicitors	Evans Dodd	Solicitors previously acting for Mr Jivraj
February 1990 determination made by the Panel under the heading "Partnership Capital Accounts" at paragraph 10 of the February 1990 determinations	February 1990 equalisation determination	See annex 2, section A2/C.
February 1990 determinations made by the panel acting as conciliators	February 1990 determinations	The February 1990 determinations were set out in a schedule in the panel's letter dated 6 February. See annex 2, section .
February 1994 letter dated 3 February 1994 sent by Mr Ahamed to the parties	February 1994 tax liability and timetable letter	See Annex 2, section A2/E.
February 1996 PHPI and clarification fax dated 19 February 1996 sent by Mr Ahamed to Mr Jivraj	February 1996 PHPI and clarification fax	See Annex 2, section A2/G.
Florida litigation: proceedings issued by Rushlake Holdings against Mr Jivraj and others on 4 April 1990 in the Circuit Court for Orange County, Florida	Florida litigation	
Foreign Investment in Real Property Tax Act 1980 (a federal statute of the USA)	FIRPTA	Definition found in Pannell Kerr Forster's draft letter of 27 February 1989. See Annex 2, section A2/C.
further directions given by Mr Ahamed on 16 July 1990	July 1990 directions	
Ghumman, Mr TM	Ghumman, Mr	Director General of the Financial Crimes Investigating Wing of the NAB, and signatory of the April 2002 closure of investigations letter.
grounds of opposition relied on by Mr Jivraj in his skeleton argument and at the hearing	grounds of opposition	See main judgment, section A.

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GSC Solicitors	GSC Solicitors	London lawyers instructed by Naaz Holdings.
H.H. Aga Khan National Council for the United Kingdom	UK Council	
Hafner, Mr Luc	Hafner, Mr	Hira's lawyer in Switzerland.
Hashwani witness statement in the present claim made by Mr Hashwani on 12 March 2013	Hashwani 2013	
Hashwani, Mr Sadruddin	Hashwani, Mr	Claimant in 2013 Folio 355.
Hashwani, Mrs Noorsultan	Hashwani, Mrs	Mr Hashwani's wife.
Hayes, Mr Roland	Hayes, Mr	Adviser to Mr Jivraj.
higher corporate tier 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	higher corporate tier acquisition	See main judgment, section D2.
Hill Dickinson LLP	Hill Dickinson	Former solicitors for Mr Jivraj.
Hira Foundation	Hira	Mr Hashwani's family trust; owner of the A shares in PHPI.
Investors was the term used in the Ahamed arbitration agreement to describe Mr Jivraj and Mr Hashwani	Investors	See Annex 2, section A2/C.
Ismaili International Conciliation and Arbitration Board	ICAB	Also known as Aga Khan SIICAB.
Jaffer, Mr Mahomed	Jaffer, Mr	Member of the Panel, appointed by Mr Jivraj.
Jamat was the term used in the Ahamed arbitration agreement to refer to the Community	Jamat	See Annex 2, section A2/C.
January 1994 letter written on 4 January 1994 by Mr Ahamed to the parties	January 1994 reflection request letter	In the January 1994 reflection request letter Mr Ahamed asked the parties to reflect further on what should happen to Jivji BV.

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January 1996 'cannot get involved' fax dated 19 January 1996 sent by Mr Ahamed to the parties	January 1996 'cannot get involved' fax	See Annex 2, section A2/G.
January 1998 deadline letter dated 1 January 1998 written by Mr Hashwani to Mr Ahamed	January 1998 deadline letter	See Annex 2, section A2/J.
Jivji Holdings B.V.	Jivji BV	Dutch company wholly owned by Jivji NV. Jivji BV was the owner of NI Canada, Rushlake USA, and Rushlake Holdings.
Jivji Holdings N.V.	Jivji NV	Company domiciled in the Netherlands Antilles, wholly owned by PHPI. Jivji NV was the owner of Jivji BV.
Jivraj, Mr Naushad	Jivraj, Mr Naushad	Son of Mr Nurdin Jivraj.
Jivraj, Mr Nurdin	Jivraj, Mr	Defendant in 2013 Folio 355.
Joint Venture Agreement between Mr Hashwani and Mr Jivraj made on 29 January 1981	JVA	See main Judgment, section A.
joint venture between Mr Hashwani and Mr Jivraj	JV	
July 1996 implementation for the parties fax dated 19 July 1996 sent by Mr Ahamed to Mr Jivraj and Mr Hashwani	July 1996 implementation for the parties fax	See Annex 2, section A2/H.
July 1997 arbitration reference letter dated 8 July 1997 written by Mr Ahamed to both parties	July 1997 arbitration reference letter	See Annex 2, section A2/H.
July 1997 top priority fax dated 16 July 1997 sent by Mr Hashwani to Mr Ahamed	July 1997 top priority fax	See Annex 2, section A2/H.
June 1997 'arbitration has become a joke' letter written by Mr Hashwani to Mr Ahamed on 27 June 1997	June 1997 'arbitration has become a joke' letter	See Annex 2, section A2/H.
June 2000 \$4m demand letter dated 14 June 2000 written by GSC Solicitors to Mr Hafner	June 2000 \$4m demand letter	See Annex 2, section A2/K.
Lord Clarke of Stone-cum-	Lord Clarke's judgment	

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Ebony JSC's judgment in <i>Hashwani v Jivraj</i> [2012] UKSC 40, [2011] 1 WLR 1872.		
March 1994 Hashwani fax sent on 17 March 1994 by Mr Hashwani to Mr Ahamed	March 1994 Hashwani fax	
March 1994 Jivraj letter written on 10 March 1994 by Mr Jivraj to Mr Ahamed	March 1994 Jivraj letter	
Memorandum of Agreement, dated 6 June 1995, signed by Mr Jivraj and Mr Hashwani.	June 1995 MoA	See Annex 2, section A2/F.
Motani, Mr Habib	Motani, Mr	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 Holdings Limited	Naaz Holdings	Mr Jivraj's investment company, incorporated in Jersey; owner of the B shares in PHPI.
Naaz Investments Limited (Canada)	NI Canada	Canadian corporation (later called Centre Point Holdings (Canada) Ltd) which held the JV's properties in Canada.
Nanji, Mr Noordin	Nanji, Mr	Official of the Ismaili community.
National Accountability Bureau of Pakistan	NAB	The NAB issued the April 2002 closure of investigations letter.
November 1993 letter written on 20 November 1993 by Mr Ahamed to the parties	November 1993 alternatives letter	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 dated 19 November 1994 written by Mr Ahamed to Mr Hashwani and Mr Jivraj	November 1994 expectation letter	See Annex 2 section A2/E.
November 1995 'whiter than white' fax dated 15 November 1995 sent by Mr	November 1995 'whiter than white' fax	See Annex 2, section A2/G.

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Jivraj to Mr Ahamed		
November 1996 facilitation fax dated 12 November 1996 sent by Mr Ahamed to the parties	November 1996 facilitation fax	See Annex 2, section A2/H.
November 1996 guidance and pressure fax dated 6 November 1996 sent by Mr Hashwani to Mr Ahamed	November 1996 guidance and pressure fax	See Annex 2, section A2/H.
November 2008 claim brought by Mr Hashwani against Mr Jivraj on 13 November 2008, 2008 Folio 1182	November 2008 claim	The November 2008 claim sought an order that Sir Anthony Colman be appointed sole arbitrator.
Observations [1] to [6] about the Community	Observations	Observations [1] to [6] are set out in section B of the main judgment.
October 1995 'should make ... payment now' letter dated 23 October written by Mr Ahamed to the parties	October 1995 'should make ... payment now' letter	See Annex 2, section A2/G.
October 1995 'you must convince me' letter dated 14 October 1995 written by Mr Ahamed to Mr Jivraj	October 1995 'you must convince me' letter	See Annex 2, section A2/G.
October 1995 formal response letter dated 13 October written by Mr Jivraj to Mr Ahamed	October 1995 formal response letter	See Annex 2, section A2/G.
October 1995 personal points fax dated 16 October 1995 sent by Mr Jivraj to Mr Ahamed	October 1995 personal points fax	See Annex 2, section A2/G.
October 1996 'I cannot stop you' fax dated 30 October 1996 sent by Mr Jivraj to Mr Hashwani and copied to Mr Ahamed	October 1996 'I cannot stop you' fax	See Annex 2, section A2/H.
October 1996 proposed indemnity letter dated 1 October 1996 written by Mr Ahamed to the parties	October 1996 proposed indemnity letter	See Annex 2, section A2/H.
October 1996 request for freedom letter dated 22 October 1996 written by Mr Hashwani to Mr Ahamed	October 1996 request for freedom letter	See Annex 2, section A2/H.
October 1998 end to misery letter dated 1 October 1998	October 1998 end to misery letter	See Annex 2, section A2/J.

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written by Mr Hashwani to Dr Sachedina		
October 2000 ‘outrageous professional conduct’ letter dated 18 October 2000 written by Zaiwallas to GSC Solicitors	October 2000 ‘outrageous professional conduct’ letter	See Annex 2, section A2/K.
October 2000 ‘will consider the matter further’ fax dated 20 October sent by GSC Solicitors to Zaiwallas	October 2000 ‘will consider the matter further’ fax	See Annex 2, section A2/K.
October 2000 ‘you will have no objection’ letter dated 5 October written by GSC Solicitors to Mr Hafner and copied to Mr Hashwani and to Hira	October 2000 ‘you will have no objection’ letter	See Annex 2, section A2/K.
October 2008 claim brought by Mr Jivraj against Mr Hashwani on 3 October 2008, 2008 Folio 1028	October 2008 claim	The October 2008 claim sought a declaration that that Mr Hashwani’s nomination of Sir Anthony Colman as arbitrator was invalid.
Panel Agreement dated 30 October 1988 made between Mr Hashwani and Mr Jivraj	Panel Agreement	Under the Panel Agreement the Panel were to “conciliate and arbitrate” between the parties and assist in determining how to terminate the joint venture.
Panel comprising Mr Pirani, Mr Jaffer, and Mr Nathoo	Panel	
Park Hotels & Properties International Ltd	PHPI	Registered as a limited liability company in Jersey on 2 August 1984. Owner of Jivji NV.
Pirani, Mr Pyarali	Pirani, Mr	Member of the Panel, appointed by Mr Hashwani.
possible different bid assertion made by Mr Jivraj	possible different bid assertion	The possible different bid assertion was discussed by Mr Ahamed in the January 1994 reflection request letter.
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	Pre-Conditions arbitration agreement	See Hashwani 2013, heading prior to para 28, and para 36.
Pre-Conditions document	Pre-Conditions	See main Judgment, section

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setting out terms which the Aga Khan in 1990 directed that the parties should adopt in resolving all their disputes before a sole arbitrator.		B2.2.
qualification requirement set out in article 8(1) of the JVA arbitration agreement	JVA qualification requirement	See main Judgment, section A.
Rushlake Holdings Ltd	Rushlake Holdings	An English company which held the JV's properties in England. Wholly owned by Jivji BV.
Rushlake Hotels (USA) Inc	Rushlake USA	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 Aitmadi Shafik	Sachedina, Dr	Official of the Ismaili community.
September 1995 letter written by Mr Ahamed to the parties on 22 September 1995	September 1995 expectation letter	See Annex 2, section A2/G.
September 1999 'kindly search your soul' letter dated 8 September 1999 written by Mr Hashwani to Mr Jivraj and Naaz Holdings	September 1999 'kindly search your soul' letter	See Annex 2, section A2/K.
September 1999 Naaz Holdings letter dated 1 September 1999 written by Mr Jivraj to Mr Hashwani and Mr Luc Hafner	September 1999 Naaz Holdings PHPI letter	See Annex 2, section A2/K.
Specified Net Asset Value	SNAV	SNAV was the amount offered in bids made for the joint venture assets as directed by the Panel.
statement of remedies and grounds served by Mr Hashwani on 2 August 2013	statement of remedies and grounds	See main judgment, section A, and Annex 2, section A2/N.
Stoy Hayward: see BDO	Stoy Hayward	
timing request by Mr Ahamed at the end of	timing request	See main judgment, section B4.1.

Long form	Abbreviation/short form	Notes
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		
Treaty on the Functioning of the European Union	TFEU	
Zaiwalla 2008 witness statement, made on 13 November 2008 by Mr Zaiwalla.	Zaiwalla 2008	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 witness statement, made on 25 October 2013 by Mr Zaiwalla in the present claim.	Zaiwalla 2013	
Zaiwalla 2014 witness statement, made on 11 September 2014 by Mr Zaiwalla in the present claim.	Zaiwalla 2014	
Zaiwalla, Mr Sarosh	Zaiwalla, Mr	Mr Hashwani's solicitor. Senior partner of Zaiwallas.