



2026:DHC:5039



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Reserved on: 27th April, 2026
Pronounced on: 30th May, 2026

+ ARB.P. 1778/2025

M/S VE COMMERCIAL VEHICLES LIMITED THROUGH ITS
AUTHORISED REPRESENTATIVE MS SWATI KUMARI
.....Petitioner

Through: Mr. Manu Bajaj and Ms. Parul, Advs.
M: 9306068311

versus

M/S SINGH ENTERPRISES THROUGH ITS PARTNERS & ANR.
.....Respondents

Through: Mr. Lokesh Bhola and Mr. Abhishek
Singh Chauhan, Advs.
M: 9971522182

CORAM:
HON'BLE MS. JUSTICE MINI PUSHKARNA

JUDGMENT

MINI PUSHKARNA, J.

Background and Brief Facts

1. The present petition has been filed under Sections 11(5) and (6) of the Arbitration and Conciliation Act, 1996 (“**Arbitration Act**”), seeking appointment of a nominee Arbitrator on behalf of the respondents, or in the alternative, a Sole Arbitrator for adjudication of the disputes between the



parties, arising out of a Dealership Agreement dated 18th March, 2021 (“**Dealership Agreement**”).

2. As per the facts on record, the petitioner-company and respondent no. 1-partnership firm, through its partner-respondent no. 2, have been in dealership since the year 2006, whereby, the respondent no. 2 supplies the vehicles manufactured by petitioner, i.e., *Eicher Pro Trucks/Buses*, spare parts of commercial vehicles and services related thereto, in the territory of Rewa, Madhya Pradesh.

3. The aforesaid arrangement between the parties had last been renewed by way of the Dealership Agreement on 18th March, 2021, for a period of 4 years and 3 months, being valid till 30th June, 2025.

4. The petitioner submits that it has approached the Court by way of the present petition on account of continuous non-compliance of the terms and conditions of the Dealership Agreement, as well as deterioration in performance thereunder by the respondent no. 1, including, but not limited to, failure to make timely deliveries of vehicles, deploy manpower at dealership, infuse required working capital, etc.

5. In view of the aforementioned issues, the petitioner communicated its intention to terminate the Dealership Agreement by way of a notice dated 22nd April, 2024. As the respondents did not undertake any corrective measures, the petitioner, by way of a Termination-cum-Demand Notice dated 11th May 2024, terminated the Dealership Agreement as per Clause 26 therein, and further, called upon the respondents to clear the pending payments totaling to Rs. 1,41,66,283/- (Rupees One Crore Forty One Lacs Sixty Six Thousand Two Hundred and Eighty Three Only).

6. The respondents furnished a reply dated 26th June, 2024 to the



aforesaid Termination-cum-Demand Notice, which as per the petitioner, reiterated false and frivolous pretenses for non-compliance. As the payment was not forthcoming, the petitioner invoked the Arbitration Clause between the parties, being Clause 34 of the Dealership Agreement, by way of a Notice Invoking Arbitration dated 05th August, 2025, issued under Section 21 of the Arbitration Act.

7. However, the respondents, in their reply dated 05th September, 2025 to the Notice Invoking Arbitration, refused to give their consent for appointment of the nominee Arbitrator proposed by the petitioner. Further, *vide* the said reply, the respondents counter-invoked the Arbitration Clause of the Dealership Agreement and raised a monetary claim of Rs. 40,66,73,457/- (Rupees Forty Crores Sixty Six Lacs Seventy Three Thousand Four Hundred and Fifty Seven Only) against the petitioner, amongst other reliefs.

8. Thus, the present petition came to be filed by the petitioner, in view of lack of consensus between the parties *qua* appointment of the Arbitrator.

Submissions of Parties

9. The respondents are resisting the relief sought in the present petition on the following grounds, as put forth in their reply:

9.1 The petitioner has annexed a purported Dealership Agreement containing an alleged Arbitration Clause with the present petition. It is an admitted position that the said document does not contain the signature of the petitioner, and the absence of signature renders the document an unexecuted draft, incapable of constituting a valid and binding Arbitration Agreement between the parties. Thus, there exists no enforceable Arbitration Clause between the parties.



9.2 The purported Arbitration Clause in the Dealership Agreement does not get triggered due to the lack of signature. Furthermore, Clause 31 of the Dealership Agreement itself specifies that the Agreement shall bind the petitioner company only upon execution by an authorized person. Accordingly, execution by an authorized signatory of petitioner is a condition precedent to the Agreement attaining any legal validity and thus, the Arbitration Clause that the petitioner seeks to invoke is *non-est* in the eyes of law.

9.3 In an attempt to justify the claims of petitioner being within limitation, it has forged the signatures of the respondent no. 2 on *Page 4* of the alleged Dealership Agreement. The petitioner has falsely averred that the Dealership Agreement was valid for “*4 years and 3 months*” and unilaterally altered the usual 3-year term.

9.4 As a consequence of said forgery, the respondents registered a formal criminal complaint with the Economic Offences Wing (“**EOW**”) on 14th November, 2025 against the petitioner company and its directors under various sections of the Bharatiya Nyaya Sanhita, 2023 (“**BNS**”).

9.5 There has been willful suppression by the petitioner as regards the fact that the petitioner has, prior to issuing the Notice Invoking Arbitration, maliciously instituted two civil suits, being *RCSA No. 908/2025* and *RCSA No. 528/2025*, before the Civil Courts at Indore and Rewa, respectively. Pertinently, both these parallel civil actions are on the exact same subject matter. Thus, by voluntarily submitting the disputes to the jurisdiction of Civil Courts, the petitioner has unequivocally waived any right to invoke Clause 34 of the Dealership Agreement.

9.6 It is settled law that a party cannot approbate and reprobate by seeking



remedies in a civil forum and subsequently pivoting to arbitration as an afterthought. Having elected a specific judicial forum, the petitioner is now legally estopped from invoking alternative remedies under Section 11 of the Arbitration Act. Such forum shopping is a gross abuse of the judicial process.

9.7 This Court lacks the territorial jurisdiction to entertain the present petition as the parties have mutually agreed to be bound by the exclusive jurisdiction of the Courts at Indore, Madhya Pradesh. Further, the claims and controversy before this Court squarely involve allegations of fraud, fabrication and misrepresentation, which go to the root of the matter and require judicial scrutiny, as such issues, particularly serious allegations of fraud, fall outside the purview of arbitral adjudication.

9.8 As on 26th June, 2024, the petitioner is liable to pay an undisputed operational debt of Rs. 40,66,73,457/- (Rupees Forty Crores Sixty Six Lacs Seventy Three Thousand Four Hundred and Fifty Seven Only), pending towards unpaid warranty claims, spare parts and vehicle replacements and damages arising out of illegal termination of the Dealership Agreement, etc. In view thereof, the respondents have already issued a statutory demand notice in Form 3 under Section 8 of the Insolvency and Bankruptcy Code, 2016 (“**IBC**”) on 17th October, 2025.

9.9 Lastly, the petitioner has failed to disclose any particulars whatsoever regarding the Arbitrator, whose name has been proposed in the Notice Invoking Arbitration. The petitioner has not provided any information in respect of the proposed Arbitrator’s professional qualifications, domain expertise, or the mandatory disclosure under Section 12(1) read with Schedule VI of the Arbitration Act. Moreover, unilateral nomination of a



Sole Arbitrator by an interested party is *ex-facie* impermissible in law. It is for this reason that the respondents, by way of their reply dated 05th September, 2025, counter-invoked arbitration and nominated their own Arbitrator, as resolution of disputes through arbitration can only be done by an Arbitrator proposed by the respondents.

10. In response, the petitioner has rejoined the reply of the respondents in the following manner:

10.1 The allegation of the respondents that the Dealership Agreement is an “*unexecuted draft*” is baseless as the said Agreement had been duly signed by both the parties and the terms therein are binding upon the parties. Inadvertently, and as a *bonafide* mistake, the petitioner had filed the old copy of the Dealership Agreement containing only respondent’s signature along with the present petition. The duly signed and executed copy of the Dealership Agreement has been filed along with the rejoinder as *Document No. 8*.

10.2 The aforesaid contention of the respondents is further not maintainable as the parties have consistently acted upon the terms of the Dealership Agreement since March, 2021, and therefore, the respondents are now estopped from challenging its execution to evade their liability.

10.3 The allegations of fraud and forgery raised by the respondents are also of no consequence as the respondents have themselves, time and again, admitted to the renewal of the Dealership Agreement and its binding nature, including, in the complaint allegedly filed by them before the EOW. Furthermore, the respondents have themselves invoked the Clause 34 of the Dealership Agreement in their reply dated 05th September, 2025 to the Notice Invoking Arbitration. Thus, the respondents have duly admitted the



existence and renewal of the Dealership Agreement, giving unfettered agreement as regards the Arbitration Clause between the parties.

10.4 The respondents' contention of forged signature at *Page 4* of the Dealership Agreement is not only false and fabricated, but also irrelevant to the present petition. They have failed to bring on record any counter document to show that respondent's sign on *Page 4* of the Agreement has been misused by the petitioner in any manner. Furthermore, the said objection of forgery had never been raised before June, 2024, and has been raised thereafter merely as an afterthought. The criminal complaint filed by the respondents in relation to the aforesaid is only an attempt to criminalize a purely commercial dispute.

10.5 Without prejudice to the above, even if the contention of respondents has any merit, it is trite law that at the stage of considering a petition under Section 11 of the Arbitration Act, the Court is only required to examine the *prima facie* existence of an Arbitration Clause/Agreement. Any allegations *qua* fraud/forgery, or any counter-claim, being disputed questions of facts, cannot be adjudicated upon.

10.6 Having accepted the existence of the Dealership Agreement and not denied the Arbitration Clause, the respondents cannot dispute the jurisdiction of this Court under Section 11 of the Arbitration Act.

10.7 The respondents' plea of waiver on account of filing of civil suit is misconceived, as admittedly, the petitioner had preferred a civil suit bearing *RCSA No. 908/2025* before the Civil Court at Indore, titled "*VE Commercial Vehicle Limited Versus Singh Enterprises & Anr.*". However, even before filing of the present petition, i.e., on 17th October, 2025, the said civil suit had been withdrawn by the petitioner, with liberty to institute appropriate



proceedings.

10.8 The respondents have also sought to rely upon a civil suit bearing *RCSA No. 528/2025* filed in Rewa, Madhya Pradesh, being titled as “*VE Commercial Vehicle Limited Versus Manoj Singh*”. The same is a suit seeking injunction to restrain/injunct the respondent no. 2 herein for the act of hindrances being caused in commercial working of the petitioner and its new dealer, which is independent of the disputes arising from the present Dealership Agreement, and has distinct causes of action. Accordingly, the respondents cannot seek to place reliance on the said civil suit before the Civil Court in Rewa, Madhya Pradesh to support the untenable plea of waiver.

10.9 The Arbitration Clause between the parties, being Clause 34 of the Dealership Agreement, clearly designates the place, i.e., seat of arbitration as Delhi. Upon a conjoint reading of the explicit term of Clause 34.1 designating seat as Delhi and Clause 34.2 being subject to Clause 34.1, it is apparent that the seat of arbitration, which is Delhi, shall remain as Delhi, irrespective of Clause 34.2, which confers exclusive jurisdiction to Courts at Indore for matters not covered under Clause 34.1 of the Dealership Agreement.

10.10 It is a settled position under the IBC that a corporate insolvency resolution process cannot be triggered if there is a pre-existing dispute. In the present case, a serious dispute regarding the non-payment of dues and breach of contract was already established through the petitioner’s Termination-cum-Demand Notice dated 11th May, 2024 and the subsequent Notice Invoking Arbitration dated 05th August, 2025. Whereas, the respondents have issued their statutory demand notice in Form 3 under



Section 8 of the IBC only on 17th October, 2025, i.e., after invocation of the Arbitration Clause by the petitioner. Thus, such a demand notice is nothing but a counter-blast to offset the legitimate dues of the petitioner.

Analysis & Findings

11. This Court has heard the rival submissions put forth by the parties and perused the pleadings and documents on record.

12. At the outset, this Court notes the objection raised by the respondents as regards the territorial jurisdiction of this Court. In this regard, reference may be made to the Dispute Resolution Clause between the parties, as contained in Clause 34 of the Dealership Agreement dated 18th March, 2021, which reads as under:

“xxx xxx xxx

34) DISPUTE RESOLUTION AND JURISDICTION

The parties hereto shall endeavor to settle by mutual conciliation any claim, dispute, or controversy (“Dispute”) arising out of, or in relation to, this Agreement, including any Dispute with respect to the existence or validity hereof, the interpretation hereof, the activities performed hereunder, or the breach hereof. Any Dispute which cannot be so resolved through such conciliation within 30 days or such extended period as the parties may agree, shall be finally settled. by a panel of 3 (three) arbitrators of which one shall be appointed by each of the disputing Parties, and the third arbitrator will be jointly nominated by the arbitrators appointed by the disputing Parties. In the event a disputing Party fails to appoint an arbitrator to be appointed by it or if the 2 (two) arbitrators fail to agree on the appointment of the third arbitrator within a period of 15 days from the date of issue of a notice of dispute by one disputing Party to the other, then the arbitrator(s) shall be appointed pursuant to the provisions of the Arbitration and Conciliation Act, 1996. The language of the arbitration proceedings shall be English. The place of arbitration shall always be at Delhi.

This Agreement shall be governed by the laws of India. Subject to clause 34.1 Parties agree, the Courts of Indore shall have exclusive jurisdiction.

xxx xxx xxx”

13. The following essentials come forth upon plain reading of the aforesaid Clause 34 governing the parties:

- I. The parties shall strive for resolving the disputes by amicable settlement through the process of mutual conciliation of any and all



disputes relating to existence, validity, interpretation of the Dealership Agreement, as well as the activities thereunder and their breach.

- II. Upon failure of amicable resolution of disputes within 30 days or any extended time as the parties may agree, the same shall be settled finally, by a panel of three Arbitrators, out of which, one each shall be appointed by the disputing parties. The third Arbitrator shall be jointly appointed by the two nominated Arbitrators.
- III. In case, within fifteen days of issuance of notice of dispute, a party fails to appoint an Arbitrator, or the two appointed Arbitrators fail to appoint the third Arbitrator, then the procedure under the Arbitration Act shall be resorted to for appointment of the Arbitrator(s).
- IV. The language of the arbitration proceedings shall be English.
- V. The place of arbitration shall always be at Delhi.
- VI. The Agreement shall be governed by the laws of India.
- VII. Subject to Clause 34.1, the Courts of Indore shall have exclusive jurisdiction.

14. Reading of the aforesaid Clause clearly evidences that place of arbitration shall always be at Delhi. Further, the intention of the parties to have the arbitration in Delhi is expressly clear from the categorical language of the Dispute Resolution Clause.

15. As regards the place of arbitration, it would be relevant to refer to Section 20 of the Arbitration Act, which stipulates regarding the same, in the following manner:

“xxx xxx xxx

20. Place of arbitration.— (1) The parties are free to agree on the place of arbitration.

(2) Failing any agreement referred to in sub-section (1), the place of



arbitration shall be determined by the arbitral tribunal having regard to the circumstances of the case, including the convenience of the parties.

(3) Notwithstanding sub-section (1) or sub-section (2), the arbitral tribunal may, unless otherwise agreed by the parties, meet at any place it considers appropriate for consultation among its members, for hearing witnesses, experts or the parties, or for inspection of documents, goods or other property.

xxx xxx xxx”

(Emphasis Supplied)

16. Thus, the Arbitration Act allows full independence to the parties to agree to a place of arbitration. Furthermore, there are situations where the place of arbitration has been held to refer to the “seat” of arbitration as well. In this regard, reference may be made to the judgment of Supreme Court in the case of **BGS SGS Soma JV Versus NHPC Limited**¹, wherein, it has been held that where the arbitration clause specifies a venue/place of arbitration and there are no contrary *indicia* regarding seat, the venue is to be treated as the juridical seat. Thus, it has been held as follows:

“xxx xxx xxx

45. It was not until this Court's judgment in Indus Mobile Distribution (P) Ltd. [Indus Mobile Distribution (P) Ltd. v. Datawind Innovations (P) Ltd., (2017) 7 SCC 678 : (2017) 3 SCC (Civ) 760] that the provisions of Section 20 were properly analysed in the light of the 246th Report of the Law Commission of India titled, “Amendments to the Arbitration and Conciliation Act, 1996” (August, 2014) (hereinafter referred to as “the Law Commission Report, 2014”), under which **Sections 20(1) and (2) would refer to the “seat” of the arbitration, and Section 20(3) would refer only to the “venue” of the arbitration. Given the fact that when parties, either by agreement or, in default of there being an agreement, where the Arbitral Tribunal determines a particular place as the seat of the arbitration under Section 31(4) of the Arbitration Act, 1996, it becomes clear that the parties having chosen the seat, or the Arbitral Tribunal having determined the seat, have also chosen the courts at the seat for the purpose of interim orders and challenges to the award.**

xxx xxx xxx

¹ (2020) 4 SCC 234.



60. The judgments of the English courts have examined the concept of the “juridical seat” of the arbitral proceedings, and have laid down several important tests in order to determine whether the “seat” of the arbitral proceedings has, in fact, been indicated in the agreement between the parties. The judgment of Cooke, J., in *Shashoua* [*Shashoua v. Sharma*, 2009 EWHC 957 (Comm):(2009) 2 Lloyd’s Law Rep 376], states:

“34. London arbitration is a well-known phenomenon which is often chosen by foreign nationals with a different law, such as the law of New York, governing the substantive rights of the parties. This is because of the legislative framework and supervisory powers of the courts here which many parties are keen to adopt. When therefore there is an express designation of the arbitration venue as London and no designation of any alternative place as the seat, combined with a supranational body of rules governing the arbitration and no other significant contrary indicia, the inexorable conclusion is, to my mind, that London is the juridical seat and English Law the curial law. In my judgment it is clear that either London has been designated by the parties to the arbitration agreement as the seat of the arbitration, or, having regard to the parties’ agreement and all the relevant circumstances, it is the seat to be determined in accordance with the final fall back provision of Section 3 of the Arbitration Act.”

61. It will thus be seen that wherever there is an express designation of a “venue”, and no designation of any alternative place as the “seat”, combined with a supranational body of rules governing the arbitration, and no other significant contrary indicia, the inexorable conclusion is that the stated venue is actually the juridical seat of the arbitral proceeding.

xxx xxx xxx

82. On a conspectus of the aforesaid judgments, it may be concluded that whenever there is the designation of a place of arbitration in an arbitration clause as being the “venue” of the arbitration proceedings, the expression “arbitration proceedings” would make it clear that the “venue” is really the “seat” of the arbitral proceedings, as the aforesaid expression does not include just one or more individual or particular hearing, but the arbitration proceedings as a whole, including the making of an award at that place. This language has to be contrasted with language such as “tribunals are to meet or have witnesses, experts or the parties” where only hearings are to take place in the “venue”, which may lead to the conclusion, other things being equal, that the venue so stated is not the “seat” of arbitral proceedings, but only a convenient place of meeting. Further, the fact that the arbitral



proceedings “shall be held” at a particular venue would also indicate that the parties intended to anchor arbitral proceedings to a particular place, signifying thereby, that that place is the seat of the arbitral proceedings. This, coupled with there being no other significant contrary indicia that the stated venue is merely a “venue” and not the “seat” of the arbitral proceedings, would then conclusively show that such a clause designates a “seat” of the arbitral proceedings. In an international context, if a supranational body of rules is to govern the arbitration, this would further be an indicia that “the venue”, so stated, would be the seat of the arbitral proceedings. In a national context, this would be replaced by the Arbitration Act, 1996 as applying to the “stated venue”, which then becomes the “seat” for the purposes of arbitration.

xxx xxx xxx”

(Emphasis Supplied)

17. Likewise, in the case of *Mr. Nitin Kwatra Versus Stadhawk Services Pvt. Ltd. & Ors.*², it has been held as follows:

“xxx xxx xxx

6. A perusal of the arbitration clause reveals that the venue and place of arbitration is Delhi. In terms of the settled legal position, venue of arbitration has to be treated as akin to seat, in the absence of any contrary indicia, and hence, this Court would have jurisdiction to appoint an arbitrator to adjudicate the disputes between the parties. The fact that the agreement contains a generic clause stating that “all disputes arising in connection with the concerned agreement shall be subject to the jurisdiction of the Courts of Gurugram” shall not affect the jurisdiction of this Court.

....

xxx xxx xxx”

(Emphasis Supplied)

18. In furtherance of the afore-stated position of law, reference may also be made to the judgment of Supreme Court in the case of *Bharat Aluminum Company Versus Kaiser Aluminum Technical Services Inc.*³, wherein, it was held as follows:

² Order dated 21st December, 2023 in *ARB.P. 722/2023*.

³ (2012) 9 SCC 552.



“xxx xxx xxx

96. Section 2(1)(e) of the Arbitration Act, 1996 reads as under:

“2. **Definitions.**—(1) In this Part, unless the context otherwise requires—

(a)-(d)***

(e) ‘**Court**’ means the Principal Civil Court of Original Jurisdiction in a district, and includes the High Court in exercise of its ordinary original civil jurisdiction, having jurisdiction to decide the questions forming the subject-matter of the arbitration if the same had been the subject-matter of a suit, but does not include any civil court of a grade inferior to such Principal Civil Court, or any Court of Small Causes;”

We are of the opinion, the term “subject-matter of the arbitration” cannot be confused with “subject-matter of the suit”. The term “subject-matter” in Section 2(1)(e) is confined to Part I. It has a reference and connection with the process of dispute resolution. Its purpose is to identify the courts having supervisory control over the arbitration proceedings. Hence, it refers to a court which would essentially be a court of the seat of the arbitration process. In our opinion, the provision in Section 2(1)(e) has to be construed keeping in view the provisions in Section 20 which give recognition to party autonomy. Accepting the narrow construction as projected by the learned counsel for the appellants would, in fact, render Section 20 nugatory. In our view, the legislature has intentionally given jurisdiction to two courts i.e. the court which would have jurisdiction where the cause of action is located and the courts where the arbitration takes place. This was necessary as on many occasions the agreement may provide for a seat of arbitration at a place which would be neutral to both the parties. Therefore, the courts where the arbitration takes place would be required to exercise supervisory control over the arbitral process. For example, if the arbitration is held in Delhi, where neither of the parties are from Delhi, (Delhi having been chosen as a neutral place as between a party from Mumbai and the other from Kolkata) and the tribunal sitting in Delhi passes an interim order under Section 17 of the Arbitration Act, 1996, the appeal against such an interim order under Section 37 must lie to the courts of Delhi being the courts having supervisory jurisdiction over the arbitration proceedings and the tribunal. This would be irrespective of the fact that the obligations to be performed under the contract were to be performed either at Mumbai or at Kolkata, and only arbitration is to take place in Delhi. In such circumstances, both the courts would have jurisdiction i.e. the court within whose jurisdiction the subject-matter of the suit is



situated and the courts within the jurisdiction of which the dispute resolution i.e. arbitration is located.

xxx xxx xxx”

(Emphasis Supplied)

19. In the present case, while Clause 34.1 forms the Arbitration Clause/Agreement between the parties, Clause 34.2 governs the disputes other than those governed by Clause 34.1. The language used in Clause 34.2, which confers exclusive jurisdiction upon the Courts at Indore, is “*Subject to clause 34.1*”. This leaves no doubt or confusion that the parties intended for Delhi to be the place, i.e., the venue, as well as the seat, of arbitration between the parties.

20. The fact that the Dealership Agreement was entered into in Gurugram and the work has been performed in Indore would not affect the jurisdiction of this Court. As held by the Supreme Court in the case of *Bharat Aluminium Company (Supra)*, Section 20 of the Arbitration Act gives recognition to party autonomy and the legislature has intentionally given jurisdiction to two Courts, i.e., the Court which would have jurisdiction where the cause of action has arisen and the Courts within whose jurisdiction the arbitration takes place. The Courts situated at the seat of arbitration, where the arbitration takes place, would have jurisdiction.

21. The respondents’ claim that the Dealership Agreement containing the Arbitration Clause is an “unexecuted document” does not hold any water. This Court notes that the respondents have themselves invoked the said Arbitration Clause, i.e., Clause 34 of the Dealership Agreement, by way of their reply dated 04th September, 2025 to the Notice Invoking Arbitration sent by the petitioner. The relevant portion of the reply of the respondents in their letter dated 04th September, 2025, reads as under:



“xxx xxx xxx

COUNTER-INVOCATION OF ARBITRATION BY OUR CLIENT

11. While VECV has waived its right to arbitrate, Our Client, whose substantial claims arising out of VECV's multiple breaches of the Dealership Agreement remain unresolved, has a legitimate right to seek adjudication.

12. Therefore, Our Client, M/s Singh Enterprises, hereby invokes Clause 34 of the Dealership Agreement dated 18.03.2021 to adjudicate all its claims against VECV, including but not limited to the recovery of ₹40,66,73,457.40 and other associated reliefs.

xxx xxx xxx”

22. As regards the plea of the respondents regarding forgery on *Page 4* of the Dealership Agreement by the petitioner, by allegedly unilaterally altering the usual three-year term to “*4 years and 3 months*”, without going into the merits of allegation of forgery, it is manifest that the allegation of forgery has been raised only *qua Page 4* of the Dealership Agreement. Whereas, the Arbitration Clause/Agreement governing the parties, i.e., Clause 34, is at *Page 21* of the Dealership Agreement. The signatures of either of the parties on the page containing the Arbitration Clause/Agreement has not been disputed before this Court.

23. Thus, considering the scope of adjudication at the stage of referring the parties to arbitration, which is limited to *prima facie* existence of an Arbitration Agreement between the parties, and further considering that the existence of Clause 34 of the Dealership Agreement has not been disputed, the allegations of forgery on *Page 4* of the Dealership Agreement, as raised



by the respondents, cannot be gone into in the present proceedings.

24. This Court also takes note of the submission made on behalf of the respondents that by voluntarily submitting the disputes to the jurisdiction of Civil Courts, the petitioner has unequivocally waived any right to invoke Clause 34 of the Dealership Agreement. However, the said contention is totally misplaced. The first suit filed by the petitioner at Indore, Madhya Pradesh before a Civil Court was withdrawn by the petitioner with liberty to file a fresh suit. The defendants in the said suit, i.e., the respondents herein, had been proceeded *ex-parte* before the Civil Court at Indore. Mere fact that earlier a civil suit had been filed, would be no bar to invoke arbitration in terms of the Arbitration Clause, especially, when the said suit had been withdrawn.

25. Further, the second suit filed by the petitioner is against respondent no. 2 herein before the Civil Court at Rewa, Madhya Pradesh. The premise and cause of action for instituting the said civil suit is entirely distinct from the present dispute between the parties. The claims and reliefs sought by the petitioner in the present proceedings arise out of the non-compliances of Dealership Agreement between the parties. Whereas, the said second civil suit has been filed on account of respondent no. 2's interference in petitioner's business activities, post termination of the subject Dealership Agreement. While reference to arbitration is sought for monetary claims arising out of the Dealership Agreement, the second civil suit bearing *RCSA No. 528/2025* has been filed seeking to injunct/restrain the respondent no. 2 herein. In this regard, the prayers sought by the petitioner in *RCSA No. 528/2025*, are reproduced as under:



“xxx xxx xxx

- a. Issue an injunction restraining the Defendant from creating any obstruction or interference with the employees of the Plaintiff or the newly appointed dealership, or from hindering or disrupting their functioning in any manner whatsoever.

- b. Direct the Defendant to refrain from making any false, misleading, or defamatory statements in any form or manner against the Plaintiff and/or the newly appointed authorized dealership, namely Kesharwani Automotive Private Limited.

- c. Pass an order of permanent injunction restraining the Defendant, his agents, representatives, employees, or any other person acting on his behalf from representing himself as an authorized dealer of the Plaintiff or from using the Plaintiff's brand name "Eicher," including but not limited to display boards, signage, promotional materials, or digital platforms, in any manner whatsoever.

- d. Pass an order of mandatory injunction directing the Defendant to immediately remove all boards, signage, branding, or any other material bearing the Plaintiff's name/logo/trademark from the premises earlier used as a dealership and/or from any other place under the control of the Defendant.

- e. Pass such other and further orders as this Hon'ble Court may deem fit and proper in the interest of justice.

xxx xxx xxx”

26. It has further been contented on behalf of the respondents that they had sent a statutory demand notice to the petitioner for payment of



operational debt of Rs. 40,66,73,457/- (Rupees Forty Crores Sixty Six Lacs Seventy Three Thousand Four Hundred and Fifty Seven Only) in Form 3 under Section 8 of the IBC on 17th October, 2025. It is to be noted that reply in the present case was filed by the respondents in the month of March, 2026. Despite the gap between the issuance of the statutory demand notice and filing of reply before this Court, the respondents have failed to bring before this Court anything to show that they have initiated formal proceedings under the IBC against the petitioner herein. Even in their reply dated 04th September, 2025 to the Notice Invoking Arbitration, the respondents had reserved their right to initiate proceedings under the IBC. However, despite lapse of a considerable period of time, nothing has been brought before this Court with respect to any action taken by the respondents against the petitioner in furtherance thereto. Moreover, as noticed above, the respondents have themselves invoked the Arbitration Clause of Dealership Agreement *qua* recovery of the same operational debt of Rs. 40,66,73,457/-, for which the respondents had earlier sent the statutory demand notice under Section 8 of IBC.

27. The judgments as relied upon by the respondents are clearly distinguishable. The judgment in the case of ***Meenakshi Nehra Bhat and Ors. Versus Wave Megacity Center Private Limited⁴*** dealt with an arbitration clause, wherein, there was an express contrary *indica* with respect to the jurisdiction and seat of the arbitration proceedings. The arbitration clause therein clearly stated that “*arbitration proceedings shall be held at New Delhi and the Courts at Gautam Budh Nagar, Uttar Pradesh shall, to the specific exclusion of all other Courts, alone have the exclusive*



jurisdiction.....”. The governing clause in the said case further conferred territorial and statutory jurisdiction on Allahabad High Court. Thus, in the facts and circumstances of the said case, it was held that New Delhi was referred only as the location for conducting the arbitral proceedings, and that from the jurisdictional perspective, the parties had expressly agreed to territorial jurisdiction vesting in the Courts at Gautam Budh Nagar, Uttar Pradesh and the Allahabad High Court, as may be applicable, depending on the proceedings in question.

28. Likewise, the other judgment in the case of ***Kush Raj Bhatia Versus DLF Power & Services Ltd.***⁵, as relied upon by the respondents, is again distinguishable and does not apply to the facts and circumstances in the present case. The said case dealt with a clause which stipulated, “*The arbitration proceeding shall be held at an appropriate location in New Delhi*”. Thus, it was held that the said clause only provided the geographical location for holding of arbitration at Delhi, and there was a *contra indica* as the clause specified that the exclusive jurisdiction would be with the Courts at Gurgaon/ Punjab and Haryana High Court at Chandigarh.

29. However, unlike the cases cited by the respondents, in the present case, the exclusive jurisdiction of Courts at Indore in Clause 34.2 is qualified by the use of the phrase “*Subject to clause 34.1*”. Thus, there is no contrary *indica* as regards the seat of arbitration in the present case.

30. Considering the aforesaid discussion, this Court finds that there is a valid Arbitration Agreement between the parties.

31. This Court notes that in its Notice Invoking Arbitration under Section

⁴ MANU/DE/4430/2022.

⁵ MANU/DE/4957/2022.



21 of the Arbitration Act, the petitioner had raised a claim to the tune of Rs. 1,41,66,283/- (Rupees One Crore Forty One Lacs Sixty Six Thousand Two Hundred and Eighty Three Only). On the other hand, the respondents in their reply dated 04th September, 2025 to the Notice Invoking Arbitration, had raised a counter-claim of Rs. 40,66,73,457/- (Rupees Forty Crores Sixty Six Lacs Seventy Three Thousand Four Hundred and Fifty Seven Only).

32. This Court also notes that Clause 34 of the Dealership Agreement between the parties makes provision for resolution of disputes by a panel of three Arbitrators, of which, one shall be appointed by each of the parties. The third Arbitrator shall be jointly nominated by the Arbitrators appointed by the disputing parties. In the event, the two nominated Arbitrators failed to agree on the appointment of the third Arbitrator, then the Arbitrator(s) shall be appointed pursuant to the provisions of the Arbitration Act.

33. In the present case, the petitioner *vide* Notice Invoking Arbitration dated 05th August, 2025, nominated their nominee Arbitrator, in para 15 of the said letter, in the following manner:

“xxx xxx xxx

15. In view thereof, Our Client proposes the name of Mr. Jagjit Singh Chhabra, having his office at K-64 (LGF), Jangpura Extension, New Delhi- 110014, having email id: jagjitschhabra@hotmail.com to act as a nominee arbitrator on behalf of Our Client. In alternative, Our Client in the interest of time and cost effectiveness purposes to nominate a Sole Arbitrator, even though the Clause provides for three members Arbitral Tribunal. You are either requested to consent to the proposed name for constitution of Arbitral Tribunal comprising of sole arbitrator or in case the same is not acceptable to you, the Noticee, then you are requested to appoint your nominee arbitrator within 30 (thirty) days of receipt of this notice for adjudication of disputes that have arisen under the Dealership Agreement.

xxx xxx xxx”



34. Likewise, the respondent *vide* their reply-letter dated 04th September, 2025, while raising counter-claim and also invoking the Arbitration Clause, nominated their nominee Arbitrator in para 13 of the said letter, in the following manner:

“xxx xxx xxx

13. In terms of Clause 34, Our Client hereby nominates and appoints Mr. Rajendra Chourasia, Retired District Judge (Madhya Pradesh Judiciary), [email: hjsrajendra@gmail.com address: B-604, The One, RNT Marg, Behind High Court, Indore (M.P.)] as its arbitrator to adjudicate upon the disputes between the parties. His vast experience and impeccable integrity make him a suitable candidate for this role. We also confirm that the said arbitrator is independent and a person of high repute.

xxx xxx xxx”

35. Thus, in terms of the Clause 34 containing the Arbitration Clause, the parties have already nominated their respective nominee Arbitrators. However, on account of disputes between the parties, the nominee Arbitrators have been unable to appoint the third Arbitrator.

36. Further, though the petitioner in the present petition has prayed for appointment of a Sole Arbitrator, in the absence of consent in this regard from the respondents, this Court proceeds to appoint the third Arbitrator, who shall act as the Presiding Arbitrator.

37. Accordingly, in view of the discussion hereinabove, the following directions are issued:

- (i) Justice (Retd.) Kurian Joseph, Former Judge, Supreme Court of India is appointed as the Presiding Arbitrator to adjudicate the disputes between the parties.
- (ii) The learned Presiding Arbitrator is requested to furnish a declaration



in terms of Section 12 of the Arbitration Act, prior to entering into the reference. In the event there is any impediment to the Arbitrator's appointment on that count, the parties are given liberty to file an appropriate application before this Court.

(iii) The remuneration of the Arbitrator(s) shall be in terms of Schedule IV of the Arbitration Act.

(iv) It shall be open to both the parties to raise their claims/counter-claims in the arbitration proceedings.

(v) It is made clear that all the rights and contentions of the parties, including, the arbitrability of any of the claims and/or counter-claims, any other preliminary objection, as well as claims on merits of the dispute of either of the parties, are left open for adjudication by the learned Arbitrator.

(vi) The parties shall approach the Presiding Arbitrator within two (02) weeks, from today.

38. Needless to state, nothing in this order shall be construed as an expression of this Court on the merits of the disputes between the parties.

39. The present petition is disposed of in the aforesaid terms.

40. The Registry is directed to send a copy of this order to the learned Presiding Arbitrator, for information and compliance.

**MINI PUSHKARNA
(JUDGE)**

MAY 30, 2026
KR/C