



2026:DHC:8292



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

CNR No. DLHC010399572026

+ **O.M.P.(I) (COMM.) 365/2026, I.A. 23305/2026, I.A. 23306/2026, I.A. 24494/2026 & I.A. 25081/2026**

RAJESH KUMAR GUPTA

.....Petitioner

Through: Mr. Rishi Sehgal, Mr. Hardik Bedi, Mr. Midhun Aggarwal and Ms. Ritu Dhingra, Advocates.

versus

PRITAM SINGH & ORS.

.....Respondents

Through: Mr. Ashish Mohan, Senior Advocate with Mr. Lakshay Saini, Mr. Auritro Mukherjee and Mr. Hemant Kumar, Advocates for R-1 and R-2.

Date of Decision: 22nd September, 2026

CORAM:

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

J U D G E M E N T

TUSHAR RAO GEDELA, J : (ORAL)

1. The present petition has been filed under Section 9 of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as the '*Act*') seeking interim measure for protection.
2. A piquant situation has arisen in the present case, where the petitioner has invoked arbitration under Section 21 of the Act *vide* notice dated 22.06.2026 based on Clause 9 of the Joint Development Agreement dated 16.09.2025.
3. The Clause 9 of the Joint Development Agreement which stipulates the Arbitration Agreement is extracted hereunder:



“9. ARBITRATION

*All disputes arising under this Agreement shall be referred to arbitration in accordance with the **Arbitration and Conciliation Act, 1996**. The arbitration shall be conducted by a sole Arbitrator mutually appointed by the Parties. The **seat and venue of arbitration shall be [Roorkie, Uttarakhand/ Delhi]**, and the proceedings shall be conducted in **English**. The arbitral award shall be final and binding on both Parties.”*

4. Learned counsel for the petitioner contends that since the seat and venue of arbitration has been determined as Roorkie-Uttarakhand and Delhi, it is at the choice of the parties to invoke arbitration at either of the places. He states that since the petitioner has instituted the present petition before this Court at first point in time, the seat and venue of arbitration ought to be deemed to be at Delhi. In support of his contention, learned counsel relied upon the judgement of Coordinate Bench of this Court in ARB.P. 339/2024 dated 03.10.2024 titled **Tata Capital Housing Finance Limited vs. Beena Sharma & Anr.**, wherein the judgement of the Supreme Court in **Indus Mobile Distribution Private Limited vs. Datawind Innovations Private Limited and Others; (2017) 7 SCC 678** has been fully relied.

5. *Per contra*, Mr. Ashish Mohan, learned senior counsel appearing on behalf of the respondent nos.1 and 2 contends that no doubt Clause 9 of the Agreement purports to confer the seat and venue of arbitration at Roorkie as well as at Delhi, however, having regard to the fact that the jurisdiction pertaining to the agreement has been considered in accordance with the laws of India and under the courts of Roorkie, Uttarakhand, shall, if read conjunctively, confer the exclusive jurisdiction on Roorkie, Uttarakhand and not on Delhi.

6. In support of his contention, learned senior counsel relies upon the judgement of the Supreme Court in **Bhartia Infra Projects Limited vs. M/S Vishwa Samudra Engineering Private Limited; SLP (C) nos.19870-19871/2026** dated 15.06.2026 wherein according to learned senior



counsel, the Supreme Court has dealt with almost an identical arbitration clause. He relies on the aforesaid judgement to submit that once the exclusive jurisdiction of the courts have been conferred upon Roorkie, coupled with the fact that the arbitration clause also countenanced Roorkie as well as Delhi as the seat and venue of arbitration, the seat and venue of arbitration ought to be construed as at Roorkie to the exclusion of Delhi.

7. This Court has heard the arguments of learned counsel for the petitioner as also the learned senior counsel for the respondent.

8. So far as the argument of learned counsel for the petitioner based on the judgement of the Supreme Court in *Indus Mobile (supra)* is concerned, it would be relevant first to take note of the fact that in *Indus Mobile (supra)*, the concerned arbitration agreement conferred jurisdiction only at Mumbai so far as the seat of arbitration was concerned, coupled with the fact that the exclusive jurisdiction, so far as the courts are concerned, was also conferred upon Mumbai. It is in that context that the Supreme Court had observed as under:

“19. A conspectus of all the aforesaid provisions shows that the moment the seat is designated, it is akin to an exclusive jurisdiction clause. On the facts of the present case, it is clear that the seat of arbitration is Mumbai and Clause 19 further makes it clear that jurisdiction exclusively vests in the Mumbai courts. Under the Law of Arbitration, unlike the Code of Civil Procedure which applies to suits filed in courts, a reference to "seat" is a concept by which a neutral venue can be chosen by the parties to an arbitration clause. The neutral venue may not in the classical sense have jurisdiction that is, no part of the cause of action may have arisen at the neutral venue and neither would any of the provisions of Sections 16 to 21 of CPC be attracted. In arbitration law however, as has been held above, the moment "seat" is determined, the fact that the seat is at Mumbai would vest Mumbai courts with exclusive jurisdiction for purposes of regulating arbitral proceedings arising out of the agreement between the parties.”

9. Learned counsel for the petitioner had also contended that the ratio laid down in *Bhartia Infra (supra)* may not be completely applicable to the present case inasmuch as the ratio laid down in *Indus Mobile (supra)* has not been



considered by the Supreme Court in ***Bhartia Infra*** (*supra*).

10. To the aforesaid extent, this Court is unable to countenance the argument.

11. This is for the reason that in both the judgements of the Supreme Court, the consideration in respect of the arbitration clause is completely different. While in the case of ***Indus Mobile*** (*supra*), the arbitration agreement conferred seat and jurisdiction at Mumbai even for the purposes of courts, while in the case of ***Bhartia Infra*** (*supra*), the arbitration agreement conferred seat and venue of arbitration at Hyderabad or Guwahati and finally the courts at Hyderabad were held to have the exclusive jurisdiction over the matters relating to or arising from the said agreement.

12. It is in that context that the two judgements may not have any bearing on each other or any overlapping at all.

13. Coming to the judgement of the Supreme Court in ***Bhartia Infra*** (*supra*), it would be apposite to extract the entire judgement so far as to clarify the latest law as laid down by the Supreme Court. Hence, the extraction is as under:

“O R D E R

1. *The petitioner has assailed the judgment and orders dated 02.04.2026 and 27.02.2026 passed by the Telangana High Court referring the dispute to arbitration under Section 11(6) of the Arbitration and Conciliation Act, 1996 (for short ‘the Act’).*

2. *The short issue which is raised before us is that the Telangana High Court did not have jurisdiction to make such reference and that the Gauhati High Court was the appropriate forum. The work order had been issued from Guwahati and the entire work was to be executed there. As the cause of action had arisen in Guwahati, petitioner had approached Gauhati High Court for appointment of arbitrator. Telangana High Court failed to consider the law laid down in Arif Azim Company Limited versus Micromax Informatics FZE reported in 2025 (9) SCC 750 and erroneously allowed the Section 11 application, on the ground that it was filed earlier.*

3. *We have considered the aforesaid submissions. Relevant arbitration*



clause reads as follows:

“ARBITRATION: Any dispute, controversy or claim arising out of or relating to or in connection with this Agreement, or the breach, termination or validity hereof shall be finally settled by arbitration in accordance with the Indian Arbitration & Conciliation Act, 1996 or any statutory modification therein. Any dispute shall be settled by arbitration presided by a sole arbitrator. The sole arbitrator shall be an independent person and shall be mutually appointed by the Parties. The Seat and Venue of the arbitration shall be Hyderabad, Telangana state or Guwahati, Assam state, and the language used in the arbitral proceedings shall be English.

This Agreement shall be governed by the laws of Republic of India and courts in Hyderabad shall have exclusive jurisdiction over matters relating to or arising from this agreement.”

4. A holistic reading of the clause would show that though twin Seat/Venue of arbitration, that is, either “Hyderabad, Telangana state or Guwahati, Assam State” is prescribed, the subsequent part of the clause unequivocally states that the courts in Hyderabad shall have exclusive jurisdiction over matters relating to or arising from this agreement. In paragraph 77.10 of *Arif Azim Company Limited (supra)*, a three Judge Bench of this Court held if two or more possible places are designated as seat, the principles of forum non conveniens would apply. Such proposition of law though unexceptionable is inapplicable in the facts where the parties have themselves agreed to the exclusive jurisdiction of the Courts in Hyderabad in the arbitration clause itself. Party autonomy being of primary importance in interpretation of the arbitration agreement, we are of the considered view, the ratio in *Arif Azim Company Limited (supra)* is factually distinguishable where the supervisory jurisdiction of the Telangana High Court over the arbitration is clearly discernible from the clause itself.

5. In such view of the matter, we are not inclined to interfere with the impugned orders.

6. The Special Leave Petitions are accordingly dismissed. Pending application(s), if any, shall stand disposed of.”

14. It may now be relevant to also extract the relevant arbitration clause i.e. Clause 9, which is the substratum of the present petition as also the jurisdiction Clause i.e. Clause 10, which are extracted hereunder:



“9. ARBITRATION

*All disputes arising under this Agreement shall be referred to arbitration in accordance with the **Arbitration and Conciliation Act, 1996**. The arbitration shall be conducted by a sole Arbitrator mutually appointed by the Parties. The **seat and venue of arbitration shall be [Roorkie, Uttarakhand/ Delhi]**, and the proceedings shall be conducted in **English**. The arbitral award shall be final and binding on both Parties.*

10. JURISDICTION

*This Agreement shall be governed by and construed in accordance with the **laws of India**. The courts at [Roorkie, Uttarakhand] shall have exclusive jurisdiction over all matters arising under or relating to this Agreement.”*

15. Having perused the said Arbitration Agreement, this Court does not have any doubt whatsoever that the seat and venue of the arbitration is at Roorkie as well as at Delhi. However, the only distinguishing factor which has persuaded this Court to construe the seat and venue of arbitration at Roorkie, Uttarakhand in comparison to the seat at Delhi is Clause 10, whereby the jurisdiction of the courts at Roorkie have been conferred exclusive jurisdiction over all matters arising under or relating to the said agreement.

16. This when read in conjunction to and in harmonious construction with the arbitration clause, which was the subject matter of interpretation by the Supreme Court in **Bhartia Infra (supra)**, leaves no doubt that the courts at Roorkie, Uttarakhand alone would have jurisdiction for the purposes of invocation of arbitration or for the purposes of seeking appointment of an arbitrator under provisions of Section 11 of the Act.

17. In view of the above clear dictum by the Supreme Court in **Bhartia Infra (supra)**, the present petition is held to be not maintainable, and is dismissed as such. However, the mere dismissal of the present petition on the aspect of jurisdiction shall not disentitle the petitioner from seeking appropriate remedies in an appropriate forum of competent jurisdiction.

18. The petition is dismissed on the limited point of lack of jurisdiction



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alone.

19. It is made clear that this Court has not touched the merits of the disputes and the rights and contentions of both the parties are left open.

20. The petition stands disposed of alongwith all the pending applications.

TUSHAR RAO GEDELA, J

SEPTEMBER 22, 2026*/anj*