$~O-1, 2, 3 and 4.

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

Date of Decision: **09.12.2025**

IN THE MATTERS OF:

\+ ARB.P. 988/2025, I.A 16760/2025, I.A. 16761/2025

M/S BERKLEY LIFESTYLE BRANDS PRIVATE LIMITED .....Petitioner

Through: Mr. Kushank Garg, Mr. Nikhil Kohli and Mr. Ahmar Shad, Advs.

versus

M/S RAJ BUILDERS PRIVATE LIMITED .....Respondent

Through: Mr. Sagar Chawla and Ms. Shweta Yadav, Advs.

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\+ ARB.P. 1168/2025

M/S BROMPTON PRIVATE LIMITED .....Petitioner

Through: Mr. Kushank Garg, Mr. Nikhil Kohli and Mr. Ahmar Shad, Advs.

versus

M/S RAJ BUILDERS PRIVATE LIMITED .....Respondent

Through: Mr. Sagar Chawla and Ms. Shweta Yadav, Advs.

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\+ ARB.P. 989/2025 and I.A. 16762/2025, I.A. 16763/2025

M/S BURLINGTON LUXURY
BRANDS PRIVATE LIMITED .....Petitioner

Through: Mr. Kushank Garg, Mr. Nikhil Kohli and Mr. Ahmar Shad, Advs.

versus

M/S RAJ BUILDERS PRIVATE LIMITED .....Respondent

Through: Mr. Sagar Chawla and Ms. Shweta Yadav, Advs.

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\+ ARB.P. 990/2025 and I.A. 16764/2025, I.A. 16765/2025

M/S BROMPTON LIFESTYLE
BRANDS PRIVATE LIMITED .....Petitioner

Through: Mr. Kushank Garg, Mr. Nikhil Kohli and Mr. Ahmar Shad, Advs.

versus

M/S RAJ BUILDERS PRIVATE LIMITED .....Respondent

Through: Mr. Sagar Chawla and Ms. Shweta Yadav, Advs.

CORAM:
HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

J U D G E M E N T

PURUSHAINDRA KUMAR KAURAV, J. (ORAL)

1. The submissions of the parties were already noted vide order dated 22.11.2025.

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2. During the course of arguments, the parties were open to explore the possibility of amicable resolution of their disputes, therefore, the hearing was deferred. The order dated 22.11.2025 is extracted as under:

> "*1. Heard learned counsel appearing on behalf of the parties.*
>
> *2. Mr. Sagar Chawla, learned counsel on behalf of the respondent, opposes the petitions and contends that the same is barred by the limitation as well as by the principles o f res Judicata.*
>
> *3. Mr. Gaurav Gupta, learned counsel who appears on behalf of the petitioners, controverts the aforesaid submissions and relics on Dolphin Drilling Ltd. v. ONGC Ltd., and Indian Oil Corporation Ltd. v. SPS Engg. Ltd. to contend that such objections may be considered in the arbitration proceedings and need not be gone into in the present petition.*
>
> *4. The dispute herein has arisen out of Lease Deed dated 21.10.2019 (the Lease Deed), which was executed by the respondent in favour of the petitioner. Under the terms of the said deed, the petitioner had made sccurity deposit in respect of the lease. The respondent was also required to deposit GST amount with the requisite authority. It is the ease of the petitioner that the respondent is liable to pay interest on the aforesaid security deposit and also liable for non-fulfilment of its obligations in respect of GST, as per the terms of the said deed.*
>
> *5. The parties have undergone a round of arbitration prior to the present petition, in respect of disputes under the said deed, and the same culminated in award dated 27.03.2025 vide which, the claim of the respondent herein was allowed. It is submitted that although the said award was challenged under Section 34 of the Arbitration and Conciliation Act, 1996 (the Act) by the petitioner herein, the same has attained finality upon dismissal of the challenge.*
>
> *6. According to Mr. Gupta, neither were the aforesaid questions available to be raised in the Section 34 petition, nor could the same have been raised in a Section 37 appeal.*
>
> *7. He further submits that, at this stage, the Court is required to look only into the existence of an arbitration agreement and then appoint the Arbitrator. According to him, with respect to one agreement, there can be multiple adjudications, if the claim was not capable of being adjudicated by the earlier arbitrator.*
>
> *8. The aforesaid position is strongly opposed by Mr. Sagar Chawla, learned counsel for the respondent and he contends that the claim of the petitioners has duly been considered in paragraph no.68 of the award and the Court, therefore, in paragraph no.86 of the award has held that the*

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respondents herein would be entitled to adjust the sum of Rs.23,24,200/- being the security deposits and amounts paid pursuant to the orders of the High Court. According to him, if the petitioner has any claim qua interest, the same was capable of being raised before the Arbitrator. Therefore, there is no merit in the ease put forth by the petitioner.

9. Additionally, he submits that even Clause 2 of the Lease Deed clearly states that the security deposit shall not bear any interest.

10. Mr. Gupta then draws the attention of the Court to Clause 13 of the Lease Deed and points out that its expiration or sooner determination, if the security deposit is not returned, the same would attract additional interest penalty @18% per annum on the Lessor. He, therefore, submits that in any ease, the petitioner herein, is entitled for interest @18% per annum on security amount at least from the date of the expiry of the lease till the award is passed. According to him, the dispute with respect to the GST deduction has not at all been considered by the Arbitral Tribunal.

11. During the course of arguments and the submissions as have been noted hereinabove, it also transpires that there is a possibility of an amicable resolution between the parties.

12. Mr. Chawla is, therefore, granted some time to take instructions as to whether the matter can be settled in Court itself or otherwise.

13. List on 02.12.2025."

3. Even today, it seems that the parties are still open for exploring the possibilities of amicable resolution. Accordingly, they are put at liberty for the same, if they so desire.

4. However, there does not seem to be any impediment in the appointment of an Arbitrator.

5. There appear to be two issues, for the adjudication of which, the petitioner seeks a referral for arbitration. They are—*first*, whether the petitioner, as per Clause 13 of the Lease Deed, is entitled to a refund of the security deposit of Rs. 3,30,000 along with interest accrued at 18% p.a.; and *second*, whether the respondent has failed to fulfil its obligations, under Clause 3 of the Lease Deed, relating to the payment and reporting of GST

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qua the alleged invoices raised by the respondent.

6. Upon perusal of the lease deed, and considering the fact that the parties herein have previously adjudicated their disputes pertaining to the lease deed, in an arbitration, which culminated into the Award dated 27.03.2023, the Court has a serious apprehension that there is no genuine *lis* which the parties can adjudicate in the proposed arbitration proceedings. The initiation of arbitration also *prima facie* appears to this Court to be frivolous.

7. In commercial contracts there may arise various questions which may require adjudication even after an arbitration has taken place, but the same would, at first blush seems require compliance with Order 2 Rule 2 of the Code of Civil Procedure, 1908 ('CPC'). A claim which could have been raised in the previous arbitration, ought not to be raised in a fresh round of arbitration. Doing so would unnecessarily strain the resources and time of a given respondent, and may further cause litigative harassment.

8. In the instant case, the cause of action is stated to have arisen on passing of the award by the Arbitral Tribunal. In any case, the Supreme Court in the case of ***Goqii Technologies Private Limited vs. Sokrati Technologies Pvt. Ltd.***,[1] has held that where a claimant seeks adjudication of non-existent and mala fide claims through arbitration, the Arbitral Tribunal may direct that the costs of the arbitration shall be borne by the party which the Tribunal ultimately finds to have abused the process of law and caused unnecessary harassment to the other party to the arbitration. The material part of the judgement reads as under:

> "*20. As observed in Krish Spg. [SBI General Insurance Co. Ltd. v. KrishSpg., (2024) 12 SCC 1 : 2024 SCC OnLine SC 1754 : 2024 INSC 532], frivolity in litigation too is an aspect which the referral court*

[1] (2025) 2 SCC 192.

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should not decide at the stage of Section 11 as the arbitrator is equally, if not more, competent to adjudicate the same.

21. Before we conclude, we must clarify that the limited jurisdiction of the referral courts under Section 11 must not be misused by parties in order to force other parties to the arbitration agreement to participate in a time consuming and costly arbitration process. This is possible in instances, including but not limited to, where the claimant canvasses the adjudication of non-existent and mala fide claims through arbitration.

22. With a view to balance the limited scope of judicial interference of the referral courts with the interests of the parties who might be constrained to participate in the arbitration proceedings, the Arbitral Tribunal may direct that the costs of the arbitration shall be borne by the party which the Tribunal ultimately finds to have abused the process of law and caused unnecessary harassment to the other party to the arbitration. Having said that, it is clarified that the aforesaid is not to be construed as a determination of the merits of the matter before us, which the Arbitral Tribunal will rightfully be equipped to determine."

9. The aforesaid exercise can be conducted by the Tribunal while pronouncing the Award but the allegation that the petitioner herein has unnecessarily called upon the Court to appoint the Arbitrator and there exists no dispute cannot be an impediment in appointing the Arbitrator.

10. Accordingly, in the considered opinion of this Court, the present set of facts deserves to be treated in the manner provided for under ***Goqii Technologies.***

11. Accordingly, Mr. Shubham Shukla (Mobile No. +91 8182005532, e-mail id: office.advshubham@gmail.com) is appointed as the Sole Arbitrator.

12. The arbitration would take place under the aegis of the Delhi International Arbitration Centre (DIAC) and in terms of its rules and regulations. The learned Arbitrator shall be entitled to fees as per the Schedule of Fees maintained by the DIAC.

13. The learned arbitrator is also requested to file the requisite disclosure under Section 12 (2) of the Act within a week of entering on reference.

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14. All rights and contentions of the parties in relation to the claims/counter-claims are kept open, to be decided by the Sole Arbitrator on their merits, in accordance with law.

15. Needless to say, nothing in this order shall be construed as an expression of opinion of this Court on the merits of the controversy between the parties. Let a copy of the instant order be sent to the Sole Arbitrator through electronic mode as well

16. Needless to state that even learned Arbitrator comes to the conclusion that the petitioner herein initiated the arbitration with a view to abuse the process of law, harass the respondent herein or that the list in actuality frivolous, he may direct that the cost of the arbitration shall be borne by the party, so responsible for it.

17. Accordingly, the instant petition, along with pending applications, stands disposed of.

PURUSHAINDRA KUMAR KAURAV, J

DECEMBER 9, 2025
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