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

\+ **W.P.(C) 2300/2026 and CM APPL. 11065/2026**

Date of Decision**: 20.02.2026**

IN THE MATTER OF:

MS NIDHI ARYA THROUGH SPECIAL POWER OF ATTORNEY HOLDER SHRI RAMESH DALAL .....Petitioner

Through: Mr. Jasbir Singh Malik, Mr. K. Gangadharan, Mr. Manjeet Kapil and Ms. Prachi Chawla, Advocates.

versus

M/S OYO HOTELS AND HOMES PVT LTD & ORS. .....Respondents

Through: Mr. Harsh Kaushik & Mr. Sachin Akhoury, Advocates.

CORAM:
HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

JUDGEMENT

PURUSHAINDRA KUMAR KAURAV, J. (ORAL)

The present petition has been filed under Articles 226 and 227 of the Constitution of India seeking to set aside the order dated 28.10.2025 passed by the Ld. Sole Arbitrator in arbitration proceedings bearing DIAC Claim Case Ref. No. DIAC/10057/12-24 between the petitioner and respondent no.1. *Vide* the impugned order, the petitioner's application to implead respondent nos. 2, 3 and 4 as parties to the proceedings has been rejected.

2. The petitioner's case is that respondent nos. 2, 3 and 4 are necessary

parties to the dispute between the petitioner and respondent no.1. According to him, all the respondents have acted collectively leading to the dispute.

3. In the impugned order, the Tribunal has rendered a finding that respondent nos. 2, 3 and 4 were not necessary parties on the ground that they had no privity of contract with the petitioner, and any role they may have had under the contract was only in a derivative capacity and that the claims of the petitioner were solely against respondent no.1. The petitioner disputes this finding, pointing out, *inter alia*, that respondent nos. 2 and 3 are 99.64% subsidiaries of respondent no.1, that Schedule-G of the Master Service Agreement contemplated obligations on the part of respondent no.2, and that a sum of ₹36,69,808/- was paid directly by the petitioner to respondent no.3.

4. According to the petitioner, the finding that the claims were only against respondent no.1 is factually incorrect. His case is that all the respondents have significant obligations to fulfil under the contract and were involved in the negotiations of the same. Therefore, the petitioner submits that he had a fit case for seeking the impleadment of the proposed respondents.

5. Mr. Jasbir Singh Malik, learned counsel for the petitioner, during the course of hearing, tried to point out from various documents that the findings rendered by the Tribunal are wholly perverse and contrary to the material available on record.

6. The submissions so made have been considered.

7. The petitioner is challenging an interlocutory order passed in the arbitration proceedings. The question, therefore, is whether this Court ought to exercise its jurisdiction under Article 227 of the Constitution to interfere with such an order. The scheme of the Arbitration and Conciliation Act,

1996 (hereinafter "**the Act, 1996**") envisages minimal intervention by the Courts in the proceedings. This principle has been elucidated by the Supreme Court in ***S.B.P. & Co. v. Patel Engineering Ltd. & Anr.***[1], wherein it observed:

> *"...the object of minimising judicial intervention while the matter is in process of being arbitrated upon, will certainly be defeated if the High Court could be approached under Article 227 or under Article 226 of the Constitution against every order made by the Arbitral Tribunal. Therefore, it is necessary to indicate that once the Arbitration has commenced in the Arbitral Tribunal, parties have to wait unless the Award is pronounced unless, of course, a right of appeal is available to them under Section 37 of the Act even at the earlier stage."*

8. Additionally, the Supreme Court, in the aforementioned case of ***S.B.P. & Co.***, has held that the scheme of the Act, 1996 does not provide any intermittent challenge to orders other than as per Section 37 and has expressly condemned writ petitions against the Arbitral Tribunal's Award holding that:

> *"It is seen that some High Courts have proceeded on the basis that any order passed by an Arbitral Tribunal during arbitration, would be capable of being challenged under Article 226 or 227 of the Constitution. We see no warrant for such an approach. Section 37 makes certain orders of the Arbitral Tribunal appealable. Under Section 34, the aggrieved party has an avenue for ventilating its grievances against the award including any in-between orders that might have been passed by the Arbitral Tribunal acting under Section 16 of the Act. The party aggrieved by any order of the Arbitral Tribunal, unless has a right of appeal under Section 37 of the Act, has to wait until the award is passed by the Tribunal."*

9. In the instant case, the impugned order is not an award but an interlocutory order passed during the course of arbitration proceedings. Though the jurisdiction of this Court under Article 227 of the Constitution

[1] (2005) 8 SCC 618

may not be completely ousted, however, the same will have to be exercised sparingly and only in exceptional circumstances.

10. In the instant case, as regards the decision passed by the Tribunal refusing impleadment of respondent nos. 2, 3 and 4, the said issue can be taken up at an appropriate stage under Section 34/37 of the Act, 1996, if need arises. The petitioner, therefore, has a statutory remedy for the ventilation of his grievance. In this regard, reference can be made to the decision passed by this Court in the case of ***Surender Kumar Singhal & Ors. vs. Arun Kumar Bhalotia & Ors.***[2]**,** where this Court has explained the following principles with respect to writ petitions challenging the orders passed by the Tribunal:

> *"(i) An arbitral tribunal is a tribunal against which a petition under Article 227 would be maintainable;*
> *(ii) The non-obstante clause in Section 5 of the Act does not apply in respect of exercise of powers under Article 227 which is a Constitutional provision;*
> *(iii) For interference under Article 227, there have to be exceptional circumstances;*
> *(iv) Though interference is permissible, unless the order is so perverse that it is patently lacking in inherent jurisdiction, the writ court would not interfere;*
> *(v) Interference is permissible only if the order is completely perverse, i.e., the perversity must stare in the face;*
> *(vi) High Courts ought to discourage litigation which necessarily interferes with the arbitral process."*

11. The aforesaid principles have also been approved by the Supreme Court in the case of ***Serosoft Solutions Pvt. Ltd. vs. Dexter Capital Advisors Pvt. Ltd.***[3] Regard must also be had to ***Deep Industries Ltd. v. Oil and Natural Gas Corporation Ltd. & Anr.***[4] wherein the Supreme Court held that

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[2] 2021 SCC OnLine Del 3708
[3] 2025 INSC 26
[4] (2020) 15 SCC 706

High Courts must be extremely circumspect in interfering with orders passed under the Act, such interference being restricted to orders patently lacking in inherent jurisdiction.

12. The Court, therefore, at this stage, does not find it appropriate to interdict the decision passed by the Arbitral Tribunal. However, it is left open to the petitioner to take the said plea at an appropriate stage, if need arises.

13. With the aforesaid observations, the petition, along with pending application, stands disposed of.

PURUSHAINDRA KUMAR KAURAV, J

FEBRUARY 20, 2026
aks/AP.