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

+ **ARB.P. 1929/2024**

Date of Decision: **20.05.2025**

IN THE MATTER OF:

ROHIT BHASIN

SON OF AMARNATH BHASIN

RESIDENT OF:

8/30, SECOND FLOOR,

WEST PATEL NAGAR,

NEW DELHI – 110008

.....PETITIONER

(Through: Mr. Amandeep Singh, Mr. Gaurav Chhabra and Mr. Pawan Kant Singh, Advs.)

versus

SORTING HAT SOLUTIONS PVT LTD

REGISTERED OFFICE AT:

MARUTHI INFOTECH CENTRE,

5TH FLOOR, B-BLOCK,

KORAMANGALA INNER RING ROAD,

DOMLUR EXTENSION,

BANGALORE – 560071

.....RESPONDENT

(Through: Dr. Anurag Bhardwaj, Adv.)

HON'BLE MR. JUSTICE PURUSHAINDR KUMAR KAURAV



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JUDGEMENT

PURUSHAINDRA KUMAR KAURAV, J. (ORAL)

1. The present petition has been filed under Section 11 of the Arbitration and Conciliation Act, 1996 (the 1996 Act) by the petitioner, seeking appointment of an Arbitrator, to adjudicate upon the disputes which have arisen between the parties under the Registered Lease deed dated 06.03.2024.
2. The facts of the case would indicate that the parties have entered into a Registered Lease deed dated 06.03.2024, with respect to shop bearing No.53, situated at Old Rajinder Nagar Market, New Delhi. By way of said lease, the property was leased out to the respondent for a total period of three years/thirty-six months.
3. Learned counsel for the petitioner submits that the respondent without complying with the terms of the lease deed, *vide* email dated 31.08.2024, terminated the said lease deed and vacated the said property. The petitioner contends that the legal notice dated 04.09.2024 was issued calling upon the respondent to comply with the terms of the said lease deed and to pay an amount of Rs.19,95,000/-.
4. A reply has been filed by the respondent. It is stated in the reply that the petitioner has failed to comply with the agreed dispute resolution mechanism by not engaging in mutual consultation for the appointment of an arbitrator, as mandated by Clause 24.
5. I have heard the learned counsel for the parties and have perused the record.
6. It emerges from the record that a legal notice dated 04.09.2024 was



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sent by the petitioner and, thereafter, a notice under Section 21 of the 1996 Act was also issued on 12.10.2024. It is, seen, that an endeavour was made for amicable resolution which has not been successful. At this stage, any further engagement in mutual consultation is also not warranted as the parties during the course of hearing, as well, have not arrived on any mutually agreed Arbitrator.

7. The Court takes note of the Clause 24 of the Registered Lease deed dated 06.03.2024, reads as under:-

“24. Dispute:

That any dispute or differences between the parties hereto relating to or arising out of this Lease Deed (including any dispute or differences as to the existence or validity hereof) shall be referred for Arbitration by a sole arbitrator and the decision of the arbitrator who shall be appointed by the Parties with mutual consent, shall be final and binding on the Parties. The Arbitration shall be conducted in accordance with the provisions or Arbitration and Conciliation Act, 1996 and/or any statutory modification or re-enactment thereof and the venue and seat of arbitration proceedings has been specified under Annexure A. The expenses of the Arbitration proceedings shall be borne by each party in equal proportion or as per the decision of the arbitrator”

8. The law with respect to the scope and standard of judicial scrutiny under Section 11(6) of the 1996 Act has been fairly well settled. This Court as well in the order dated 24.04.2025 in case of ARB.P. 145/2025 titled as ***Pradhaan Air Express Pvt Ltd v. Air Works India Engineering Pvt Ltd*** has extensively dealt with the scope of interference at the stage of Section 11. The Court held as under:-

9. *“The law with respect to the scope and standard of judicial scrutiny under Section 11(6) of the 1996 Act has been fairly well settled. The Supreme Court in the case of **SBI General Insurance Co. Ltd. v. Krish Spinning**,¹ while considering all earlier pronouncements including the Constitutional Bench decision of seven judges in the case of **Interplay between Arbitration Agreements under the Arbitration & Conciliation Act, 1996 & the Indian***

¹ 2024 SCC OnLine SC 1754.



*Stamp Act, 1899, In re*² has held that scope of inquiry at the stage of appointment of an Arbitrator is limited to the extent of prima facie existence of the arbitration agreement and nothing else.

10. It has unequivocally been held in paragraph no.114 in the case of **SBI General Insurance Co. Ltd** that observations made in **Vidya Drolia v. Durga Trading Corpn.**,³ and adopted in **NTPC Ltd. v. SPML Infra Ltd.**,⁴ that the jurisdiction of the referral court when dealing with the issue of “accord and satisfaction” under Section 11 extends to weeding out ex-facie non-arbitrable and frivolous disputes would not apply after the decision of **Re: Interplay**. The abovenoted paragraph no.114 in the case of **SBI General Insurance Co. Ltd** reads as under:-

“114. In view of the observations made by this Court in *In Re: Interplay* (supra), it is clear that the scope of enquiry at the stage of appointment of arbitrator is limited to the scrutiny of prima facie existence of the arbitration agreement, and nothing else. For this reason, we find it difficult to hold that the observations made in *Vidya Drolia* (supra) and adopted in *NTPC v. SPML* (supra) that the jurisdiction of the referral court when dealing with the issue of “accord and satisfaction” under Section 11 extends to weeding out ex-facie non-arbitrable and frivolous disputes would continue to apply despite the subsequent decision in *In Re: Interplay* (supra).”

11. Ex-facie frivolity and dishonesty are the issues, which have been held to be within the scope of the Arbitral Tribunal which is equally capable of deciding upon the appreciation of evidence adduced by the parties. While considering the aforesaid pronouncements of the Supreme Court, the Supreme Court in the case of **Goqii Technologies (P) Ltd. v. Sokrati Technologies (P) Ltd.**,⁵ however, has held that the referral Courts under Section 11 must not be misused by one party in order to force other parties to the arbitration agreement to participate in a time-consuming and costly arbitration process. Few instances have been delineated such as, the adjudication of a non-existent and malafide claim through arbitration. The Court, however, in order to balance the limited scope of judicial interference of the referral Court with the interest of the parties who might be constrained to participate in the arbitration proceedings, has held that the Arbitral Tribunal eventually may direct that the costs of the arbitration shall be borne by the party which the Arbitral Tribunal finds to have abused the process of law and caused unnecessary harassment to the other parties to the arbitration.

12. It is thus seen that the Supreme Court has deferred the adjudication of

² 2023 SCC OnLine SC 1666.

³ (2021) 2 SCC 1.

⁴ (2023) 9 SCC 385.

⁵ (2025) 2 SCC 192.



aspects relating to frivolous, non-existent and malafide claims from the referral stage till the arbitration proceedings eventually come to an end. The relevant extracts of **Goqii Technologies (P) Ltd.** reads as under:-

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

13. In view of the aforesaid, the scope at the stage of Section 11 proceedings is akin to the eye of the needle test and is limited to the extent of finding a prima facie existence of the arbitration agreement and nothing beyond it. The jurisdictional contours of the referral Court, as meticulously delineated under the 1996 Act and further crystallised through a consistent line of authoritative pronouncements by the Supreme Court, are unequivocally confined to a prima facie examination of the existence of an arbitration agreement. These boundaries are not merely procedural safeguards but fundamental to upholding the autonomy of the arbitral process. Any transgression beyond this limited judicial threshold would not only contravene the legislative intent enshrined in Section 8 and Section 11 of the 1996 Act but also risk undermining the sanctity and efficiency of arbitration as a preferred mode of dispute resolution. The referral Court must, therefore, exercise restraint and refrain from venturing into the merits of the dispute or adjudicating issues that fall squarely within the jurisdictional domain of the arbitral tribunal. It is thus seen that the scope of enquiry at the referral stage is conservative in nature. A similar view has



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also been expressed by the Supreme Court in the case of Ajay Madhusudan Patel v. Jyotrindra S. Patel⁶.”

9. In view of the fact that disputes have arisen between the parties and there is an arbitration clause in the contract, Mr. Dhruv Pande, Adv. (Mobile No.+91 99101-65010 Email: adv.dhruvpande@gmail.com) is appointed as the sole Arbitrator.

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

11. The learned arbitrator is also requested to file the requisite disclosure under Section 12 (2) of the 1996 Act within a week of entering on reference.

12. The registry is directed to send a receipt of this order to the learned arbitrator through all permissible modes, including through e-mail.

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

14. The petition stands disposed of in the aforesaid terms.

PURUSHAINDR KUMAR KAURAV, J

MAY 20, 2025/DPA/MJ

Click here to check corrigendum, if any

⁶ (2025) 2 SCC 147.