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* IN THE HIGH COURT OF DELHI AT NEW DELHI

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Judgment reserved on: 29.01.2026
Judgment pronounced on: 12.02.2026

+ ARB.P. 1379/2025

M/S RCC INFRAVENTURES LTD. & ORS.Petitioners

Through: Ms. Amrita Panda, Mr. Ruchir Joshi and Mr. Shivang Berry, Advocates.

versus

M/S. DMI FINANCE PVT. LTD. & ORS.Respondents

Through: Ms. Geeta Luthra, Senior Advocate with Mr. Nitin Saluja, Mr. Manas Agrawal, Ms. Kamakshi Gupta, Ms. Janvi Desai, Ms. Prashansika Thakur, Ms. Pranya Madan and Ms. Ishita Soni, Advocates for Respondent No. 1. Mr. Siddharth Khattar, Mr. Divij Andley and Mr. Gaurav Raj Sharma, Advocates for Respondent Nos. 2 & 3.

+ O.M.P. (T) (COMM.) 98/2025

RCC INFRAVENTURES LIMITED & ORS.Petitioners

Through: Ms. Amrita Panda, Mr. Ruchir Joshi and Mr. Shivang Berry, Advocates.

versus



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Mr. Siddharth Khattar, Mr. Divij Andley and Mr. Gaurav Raj Sharma, Advocates for Respondent Nos. 2 & 3.

CORAM:

HON'BLE MR. JUSTICE HARISH VAIDYANATHAN SHANKAR

JUDGMENT

HARISH VAIDYANATHAN SHANKAR, J.

1. The Petition being **O.M.P.(T)(COMM.) 98/2025¹** has been filed under Section 15 of the **Arbitration and Conciliation Act, 1996²**, seeking the appointment of a substitute Sole Arbitrator.
2. The other Petition, being **ARB.P. 1379/2025³**, filed under Section 11 of the Act, was instituted prior to the filing of the Section 15 Petition and seeks the appointment of an Arbitrator.
3. The learned Sole Arbitrator, appointed by this Court *vide* the Order dated 02.11.2020 passed in O.M.P.(I)(COMM.) 249/2020, recused herself from the arbitration proceedings, which necessitated the Section 11 Petition.

¹ Section 15 Petition

² Act

³ Section 11 Petition



4. However, *vide* Order dated 03.09.2025, in Section 11 Petition, this Court recorded the submission of the learned counsel for the Petitioners that the Section 11 Petition be treated as a petition under Sections 14 and 15 of the Act, and thus, the same was ordered accordingly. Later, and as by way of abundant caution, the Petitioners appear to have filed the Section 15 Petition, and therefore, both the Petitions shall be disposed of by way of this common judgment.

BRIEF FACTS:

5. Shorn of unnecessary details, a conspectus of brief facts leading to the present petitions is as follows:

- a. The parties herein executed a **Memorandum of Understanding dated 05.01.2020**⁴.
- b. The MoU contains an arbitration clause being Clause 6.3, which reads as under:

“6.3 Governing Law and Dispute Resolution
All disputes, claims, suits and actions arising out of this MoU or its validity will be resolved through sole arbitrator as appointed in accordance with the provisions of Arbitration and Conciliation Act, 1996.”
- c. Owing to the disputes that had arisen between the parties, the Petitioners herein invoked arbitration by way of a notice under Section 21 of the Act dated 27.07.2020.
- d. Subsequently, by way of an Order dated 02.11.2020 passed in O.M.P.(I)(COMM.) 249/2020, this Court appointed Ms. Justice R. Bhanumathi (Retd. Judge of the Hon'ble Supreme Court) as the Sole Arbitrator for adjudication of the disputes.

⁴ MoU



- e. After completion of pleadings, the learned Arbitrator proceeded to the recording of testimonies of the parties.
- f. It is stated that the cross-examination of the **Claimant -Witness 1-Mr. Luv Jain**⁵, was fixed for 10.08.2025; however, owing to a medical exigency of CW-1, the same could not be concluded.
- g. Thereafter, CW-1 addressed an email to the learned Sole Arbitrator on the very same evening, *inter alia*, seeking an amendment to the already-recorded answers.
- h. By way of Procedural Order dated 12.08.2025, learned Sole Arbitrator terminated arbitration proceedings by recusing herself from the subject matter and also directed the parties herein to approach this Court for appropriate directions for the appointment of a substitute Arbitrator.

6. It is in pursuance of this Order of recusal that the Petitioners herein have preferred the present Petitions.

SUBMISSIONS OF THE PARTIES:

7. The learned Senior Counsel appearing on behalf of Respondent No. 1 would raise serious objections to the present Petitions.
8. While candidly admitting that she is not averse to the appointment of another Arbitrator, she would, however, caveat the same with a request for directions to be issued as against the Petitioners on the basis that the Petitioners have been guilty of egregious misconduct and of lowering the majesty of the learned Arbitral Tribunal, which comprised a Retired Judge of the Hon'ble Supreme Court.

⁵ CW-1



9. She would contend that the Petitioners misconducted themselves before the learned Sole Arbitrator in the proceedings, which led to her recusal.

10. She would further contend that Mr. Luv Jain/CW-1, who was the witness on behalf of the Petitioners, had absented himself from the proceedings, which were conducted on 10.08.2025.

11. Learned Senior Counsel would submit that the reason given for the absence of CW-1 was initially attributed to ill-health. She would, however, contend that quite contrary to what was originally portrayed as the reason for the absence of CW-1, an e-mail was addressed to the learned Arbitrator on that very evening which made no mention of any ill-health but rather went on to make certain allegations and which, she would contend, are the proximate reason for the recusal by the learned Sole Arbitrator.

12. She would therefore contend that this Court should take note of the egregious misconduct displayed by the Petitioners' witness and either impose exemplary punitive costs or initiate criminal contempt, or at the very least pass strictures against the CW-1.

13. To buttress her argument in respect of imposing costs upon the Petitioners, she would rely on the Judgement of this Court in *M/S Sarika Chaturvedi v. Agarwal Auto Traders & Ors*⁶.

14. Learned Senior Counsel would rely upon the Judgement of a Division Bench of this Court in *Dalmia Family Office Trust & Anr. v. Getamber Anand & Ors.*⁷, to further support her contention that, keeping in view the conduct of the Petitioners, more particularly CW-1, contempt proceedings should be initiated.

⁶ 2024:DHC:4302

⁷ 2024:DHC:7895-DB



15. She would further contend that, given the manner in which CW-1 had conducted himself, at the very least, his entire evidence should be struck from the record.

16. Learned Senior Counsel for Respondent No. 1 would also contend that, assuming without admitting, an Arbitrator were to be appointed, it certainly cannot be on the basis of the Section 15 Petition since, in her view, the Petition does not conform to the procedure as contemplated under Section 15(2) of the Act.

17. She would contend that upon the termination of the mandate of an Arbitrator, the substitute Arbitrator can be appointed only according to "*Rules that were applicable to the appointment of the Arbitrator being replaced*". She would contend that in the run-up to the appointment of the Sole Arbitrator in the present case, this Court had prescribed a certain procedure for the appointment, which entailed the consultative appointment mechanism.

18. Learned Senior Counsel for Respondent No.1 would submit that this was the manner in which the earlier proceedings had been initiated, and since the same process has not been followed now, the present Petition is not in conformity with the provisions of Section 15(2) of the Act and, therefore, the Section 15 Petition is not maintainable.

19. To support the said contention, she would rely primarily on the Judgment of this Court in ***Mother Boon Foods Pvt. Ltd. v. Ready Roti India Pvt. Ltd.***⁸.

⁸ 2024 SCC OnLine Del 4616



20. Learned counsel for Respondent Nos. 2 and 3 would place reliance on, and adopt, the submissions made by the learned Senior Counsel appearing for Respondent No. 1.

21. ***Per contra***, learned counsel appearing for the Petitioners would submit that the Section 15 Petition is maintainable since this Court has already permitted the Petition preferred by the Petitioners under Section 11 to be treated as one under Sections 14 and 15 of the Act for the purpose of substitution of the Arbitrator.

22. She would further contend that the alleged misconduct is not clearly apparent, and any such alleged misconduct, if at all, occurred on one occasion, post which the learned Sole Arbitrator recused from the proceedings.

23. She would further rely upon the Judgment of the Hon'ble Supreme Court in ***Yashwith Construction P. Ltd vs Simplex Concrete Piles India Ltd. & Anr.***⁹ and in particular Para 4 thereof, to contend that the term "Rules", as expressed in Section 15(2) of the Act, cannot possibly extend it to mean the procedure which is adopted earlier and the only relevant consideration that needs to be accorded is to the arbitration clause itself and which clause only makes reference to the appointment of an Arbitrator in terms of the Act.

ANALYSIS:

24. This Court has heard learned counsel for the parties and, with their able assistance, perused the relevant record and the various judgments relied upon by them in support of their respective contentions.

⁹ (2006) 6 SCC 204



25. This Court is of the considered view that, in light of the recent judgment of the Hon'ble Supreme Court in ***Harshbir Singh Pannu v. Jaswinder Singh***¹⁰, the remedy available to a party where the mandate of an Arbitrator has been terminated does not lie in the filing of a fresh application under Section 11 of the Act.

26. The Hon'ble Supreme Court in the said Judgement has clarified that, upon termination of arbitral proceedings, the appropriate course available to an aggrieved party is to invoke the jurisdiction of the Court under Sections 14 and 15 of the Act, rather than seeking the appointment of a new Arbitrator by resorting to Section 11. In arriving at this conclusion, the Apex Court, while addressing the absence of an express statutory remedy against an order terminating arbitral proceedings, adopted a purposive interpretation of Sections 14 and 15 of the Act, having regard to the overall scheme and object of the Act.

27. This Court is also of the view that the objection raised by the learned Senior Counsel regarding the maintainability of the Section 15 Petition, on the ground of alleged non-compliance with Section 15(2) of the Act, is untenable. The contention that the rules applicable at the stage of the initial appointment of the learned Sole Arbitrator were not followed cannot be sustained, particularly in light of the judgment of the Hon'ble Supreme Court in ***Yashwith Construction P. Ltd (supra)***.

28. Since the arbitration agreement as between the parties only provides for appointment in terms of the provisions of the Act, this Court finds no infirmity with the Section 15 Petition, and as a result thereof, the objection as respects the maintainability of the present Petition is rejected.

¹⁰ 2025 SCC OnLine SC 2742



29. Now adverting to the submission of the learned Senior counsel with respect to the need for an exemplary punitive cost being imposed upon the Petitioners as a result of the alleged egregious misconduct displayed.

30. While this Court is of the view that there does appear to have been a degree of indiscretion in the manner in which CW-1 conducted himself, the same is not of such gravity as would warrant the imposition of exemplary or punitive costs.

31. However, having regard to the manner in which CW-1 conducted himself before the learned Arbitrator, which resulted in the protraction of the arbitral proceedings, this Court is of the considered view that a measure of responsibility must be attributed. Accordingly, this Court directs that costs in the sum of Rs. **50,000/- be imposed upon the Petitioners**, to be paid to the Delhi High Court Bar Association within a period of one week from the date of this Order.

32. With respect to the contention of the learned Senior Counsel seeking initiation of contempt proceedings against the Petitioners, for the reasons set out hereinabove, this Court declines to accede to the said request.

33. This Court is of the considered view that the power to punish for contempt is an extraordinary jurisdiction, the exercise of which carries serious civil and penal consequences. Such jurisdiction must, therefore, be exercised with the utmost circumspection and restraint, and only in rare and exceptional circumstances where the Court is satisfied that there has been a clear, wilful, and deliberate act of contumacious conduct intended to obstruct the administration of justice or to substantially undermine the authority, dignity, and



sanctity of the adjudicatory process. Mere procedural lapses, indiscretion, or conduct falling short of such a high threshold would not justify the invocation of the contempt jurisdiction of this Court.

34. In the facts of the present case, this Court is not persuaded that the conduct of Mr. Luv Jain/CW-1 was of such an egregious, contumacious, or wilful nature as would warrant the invocation of the contempt jurisdiction of this Court. In any event, even assuming that the learned Sole Arbitrator, who is a retired Judge of the Hon'ble Supreme Court, was sufficiently aggrieved by the conduct in question, it was open to her, in terms of Section 27(5) of the Act, to make a reference to this Court for consideration of initiation of contempt proceedings. Evidently, no such reference was made, which further fortifies the conclusion that the facts of the present case do not warrant the exercise of contempt jurisdiction.

35. In view of the foregoing, and having regard to the overall facts and circumstances of the present case, this Court is of the opinion that the disputes between the parties ought to be referred to arbitration by the appointment of a substitute Arbitrator.

36. For the said purpose, this Court requests Hon'ble Mr. Justice Mukul Mudgal, Former Chief Justice of Punjab and Haryana High Court [Mob - 9818000250] to enter into the reference and adjudicate the disputes between the parties.

37. The learned Sole Arbitrator may proceed with the arbitration proceedings, subject to furnishing to the parties the requisite disclosures as required under Section 12(2) of the Act within a week of entering the reference.



2026:DHC:1200



38. The learned Sole Arbitrator shall be entitled to fees in accordance with the law.

39. The parties shall share the learned sole Arbitrator's fee and arbitral costs equally.

40. All rights and contentions of the parties are kept open and shall be adjudicated by the learned Sole Arbitrator on their own merits, in accordance with law.

41. Needless to state, nothing in this order shall be construed as an expression of opinion of this Court on the merits of the controversy. All rights and contentions of the parties in this regard are reserved.

42. The Registry is directed to send a receipt of this order to the learned Arbitrator through all permissible modes, including through e-mail.

43. Accordingly, the present Petitions, along with pending application(s), are disposed of in the aforesaid terms.

HARISH VAIDYANATHAN SHANKAR, J.
FEBRUARY 12, 2026/v/va