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

Date of Decision: 17.03.2026

+ ARB.P. 1472/2024

DEEPAK AGARWAL & ANR.Petitioners
Through: Ms. Kaadambari Singh, Senior
Advocate along with Mr.
Lokesh Bhola, Mr. Tesu Gupta,
Advocates along with Mr.
Girish Kalra, AR.

versus

ANUBHAV SHARMARespondent
Through: Mr. Alok Tiwari, Ms. Kritika
Bansal, Ms. Dakshayani Saxena
and Mr. Saurabh Tiwari,
Advocates.

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+ ARB.P. 1473/2024

CLARION PROPERTIES LIMITEDPetitioner
Through: Ms. Kaadambari Singh, Senior
Advocate along with Mr.
Lokesh Bhola, Mr. Tesu Gupta,
Advocates along with Mr.
Girish Kalra, AR.

versus

ANUBHAV SHARMARespondent
Through: Mr. Alok Tiwari, Ms. Kritika
Bansal, Ms. Dakshayani Saxena
and Mr. Saurabh Tiwari,
Advocates.

**CORAM:
HON'BLE MR. JUSTICE HARISH VAIDYANATHAN
SHANKAR**



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JUDGEMENT (ORAL)**HARISH VAIDYANATHAN SHANKAR, J.****I.A. 6729/2026 (For Dir.) in ARB.P. 1472/2024****I.A. 6726/2026 (For Dir.) in ARB.P. 1473/2024**

1. The present Applications have been filed by the Petitioners, under Section 151 of the Code of Civil Procedure, 1908, seeking the following directions:-

“a) direct the joint trial of both the Arbitration proceedings bearing Case Reference Nos. DIAC/10296/02-25 and DIAC/10297/02-25 before single Arbitrator in order to avoid conflicting judgments; and

b) pass such further or other orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.”

2. A perusal of the record makes it apparent that two distinct Petitions under Section 11 of the Arbitration and Conciliation Act, 1996, being ARB.P. 1472/2024 and ARB.P. 1473/2024, came to be preferred in the year 2024.

3. Consequently this Court, *vide* two separate Orders, both dated 04.02.2025, appointed Mr. Anubhav Bhasin and Mr. Swastik Singh, as learned Arbitrators in the said Section 11 proceedings respectively, to adjudicate upon the disputes that had arisen as between the parties.

4. As is evident, the learned Arbitrators entered upon the reference almost a year ago and have since conducted various hearings. At present, the proceedings are now at the stage of evidence. It is at this stage that the Petitioners have sought to file the present Applications.

5. Learned counsel for the Respondent, at the outset, raises an objection to the present Applications, submitting that they are not maintainable on the ground that once a Petition under Section 11



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attains finality, and an Arbitrator is appointed, the Court becomes *functus officio* with respect to the matter and the learned Arbitrator becomes the master of the proceeding and adjudication of disputes. It is urged that the present Applications suffer from the vice of being violative of the primary objectives of Arbitration, being expeditious adjudication and minimal interference of the Courts.

6. In this regard, learned counsel for the Respondent relies upon the judgment of the Hon'ble Supreme Court in *Hindustan Construction Company Ltd. through its Authorised Signatory Yogesh Dalal vs. Bihar Rajya Pul Nirman Limited and Ors.*¹, particularly Paragraph Nos. 11.13, 11.14 and 11.15. The relevant paragraphs are reproduced herein under for ready reference:

“11.13. Once the Section 11 order had attained finality, the only remedies available to the respondents were to approach this Court under Article 136 or to raise objections under Section 16 before the arbitral tribunal. Having chosen neither route, and having participated in the arbitral proceedings, including joint applications under Section 29A, they were estopped from reopening the matter through review. A later judgment cannot revive a concluded cause of action.

11.14. As emphasized in *BSNL v. Nortel Networks (India) (P) Ltd (supra)*, courts must resist “attempts to re-enter through the back door what the statute has shut through the front door”. Section 11 is intended to trigger arbitration, not to create multiple stages of judicial reconsideration.

11.15. For the reasons discussed above, this Court is of the considered view that the High Court did not have the jurisdiction to reopen or review its earlier order passed under Section 11(6) of the A&C Act. Once the appointment was made, the court became *functus officio* and could not sit in judgment over the very issue it had already settled. The review order cuts against the grain of the Act, undermines the principle of minimal judicial interference, and effectively converts the review into an appeal in disguise. Such an exercise cannot stand. Accordingly, this issue is answered in the negative.”

¹ 2025 INSC 1365



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7. Learned counsel appearing on behalf of the Respondent, raises further objection to the present Applications, and submits that these are filed extremely belatedly, taking into consideration that the proceedings in both the arbitrations are at the stage of evidence.

8. Learned counsel for the Respondent further submits that these Applications are frivolous, and are nothing but a roundabout manner to get over the fact that the agreement to sell as between the parties has been impounded.

9. Learned counsel submits that the Petitioners always had a relief available under Rule 6 of the DIAC Rules for consolidation of both the arbitral proceedings. He submits that when an alternative relief to this was already available to the Petitioners, which was never resorted to, the Petitioners cannot now pray for such relief before this Court.

10. ***Per contra***, learned counsel appearing on behalf of the Petitioners would rely upon the judgment of Hon'ble Supreme Court in ***P.R. Shah, Shares and Stock Brokers (P) Ltd. Vs. B.H.H. Securities (P) Ltd. & Ors.***², to canvass that it is preferable and in fact desirable that arbitration proceedings between the same parties relating to similar agreements are consolidated and proceeded together for adjudication of disputes *inter se* the same parties.

11. This Court has heard the learned counsel for the parties and with their able assistance, perused the material available on record and the documents passed across the bar.

12. This Court is of the view that the present Applications have been filed at an extremely belated stage. The said arbitral proceedings have already advanced considerably, where the pleadings have been

² (2012) 1 SCC 594



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completed, issues have been framed and the matter presently stands at the stage of evidence.

13. In this backdrop, this Court is of the considered view that since the matter has traversed a fair distance, at this stage, it would not be advisable to disturb the *status quo* as it presently exists and therefore the reliefs as sought for by way of the present Applications are liable to be rejected.

14. However, it is open to the parties to apprise the learned Arbitrators of the outcome of the proceedings in any one of the matters and to make an appropriate request to try and hold hearings in tandem, subject to the convenience of the parties. It is clarified that this Court is in no manner indicating or directing the learned Arbitrators to follow a particular procedure.

15. In view of the aforesaid, the present Applications stand rejected and is disposed of for the aforesaid reasons.

16. A photocopy of the Order passed today be kept in the connected matters.

HARISH VAIDYANATHAN SHANKAR, J
MARCH 17, 2026/nd/DJ