



2026:DHC:3206



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

**Date of decision: 17.04.2026**

+ ARB.P. 435/2026

JONES LANG LASALLE BUILDING OPERATIONS  
PRIVATE LIMITED .....Petitioner

Through: Mr. Deepak Singh, Mr.  
Shubham Jaiswal, Mr. Vikrant  
Singh, Mr. Upendra Yadav, Mr.  
Sahil Sansanwal & Mr. Tushar  
Yadav, Advs.

versus

GUPTA HOUSING PRIVATE LTD. AND ANR

.....Respondents

Through: Mr. Shaunak Kashyap, Ms.  
Mayanka Dhawan & Mr.  
Vikram Kalra, Advs.

**CORAM:**

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

% **JUDGEMENT (ORAL)**

1. The present Petition has been filed under Section 11(6) of the **Arbitration and Conciliation Act, 1996<sup>1</sup>** seeking the appointment of a Sole Arbitrator to adjudicate upon the disputes arising out of the **Property Management Service Agreement dated 20.10.2021<sup>2</sup>**.

2. The Agreement is stated to contain a Dispute resolution Clause, which contemplates adjudication of disputes arising out of the said Agreement, *inter se* the parties, by way of Arbitration. In this regard,

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<sup>1</sup> Act

<sup>2</sup> Agreement



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reliance is placed on Clause 22 of the Agreement, which reads as under:

**“22. GOVERNING LAW & DISPUTE RESOLUTION**

**22.1.** If any dispute arises out of or in connection with this Agreement, representatives of the Parties with authority to settle the dispute will, within fourteen (14) days of a written request from one Party to the other, meet in a good faith effort to resolve the dispute.

**22.2.** Failing amicable settlement as provided for in Clause 22.1, disputes and differences arising out of or in connection with the Agreement shall be referred to arbitration under the provisions of the then prevailing Indian Arbitration and Conciliation Act, 1996. The Parties agree that the seat of arbitration shall be at New Delhi and the arbitral proceedings shall be conducted by a sole arbitrator to be appointed by the Parties mutually within 15 (Fifteen) days from the date of the first recommendation for an arbitrator in written form from a Party to the other Party. If the Parties fail to decide on the sole arbitrator within stipulated period of 15 (Fifteen) days the sole arbitrator shall be appointed in accordance with the provisions of the then prevailing Indian Arbitration and Conciliation Act, 1996. The arbitration proceedings shall be conducted in the English language

**22.3.** Clause 22.2 does not preclude a Party from seeking injunction and preliminary injunction from a court of law in accordance with Clause 22.4 and in accordance with the provisions of the Arbitration and Conciliation Act, 1996.

**22.4.** This Agreement is governed by the laws of the Republic of India. The Parties agree to submit to the exclusive jurisdiction of the courts of Mumbai alone.

**22.5.** This Clause shall survive any termination or expiry of this Agreement.”

3. The material on record reflects that the statutory requirement of invocation of the aforesaid Arbitration Clause, under Section 21 of the Act, has been complied with *vide* Legal Notice dated 30.04.2025. The same has been responded to, by the Respondents, *vide* a Letter dated 30.05.2025, wherein the Respondents did not consent to appointment of an Arbitrator.

4. Learned counsel appearing for the Respondents, at the outset, submits that although a reply to the present Petition has been filed, the



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same could not, unfortunately, be brought on record.

5. Learned counsel for the Respondents has, therefore, handed over a copy of the said reply across the bar. The Registry is directed to ensure that the same is taken on record.

6. Learned counsel for the Respondents raises a two-fold preliminary objection to the maintainability of the present Petition. *First*, that the present Petition is premature, inasmuch as the Petitioner has failed to comply with the pre-arbitration procedure contemplated under the Arbitration Clause. *Second*, that the Agreement confers exclusive jurisdiction upon the Courts in Mumbai and, therefore, this Court lacks territorial jurisdiction to entertain the present Petition.

7. In this regard, learned counsel for the Respondents, elaborating on the first objection, submits that the Arbitration Clause, specifically Clause 22.1, contemplates a pre-arbitration mechanism requiring one party to issue a written request to the other for a meeting in good faith, with a view to amicably resolving disputes between the parties prior to invocation of Arbitration proceedings.

8. Learned counsel for the Respondents, therefore, contends that the present Petition is premature and ought to be dismissed, since the Petitioner did not resort to the aforesaid contractual pre-condition and, instead, bypassed the same by directly invoking the Arbitration Clause, and thereby preferring the present Petition.

9. The second objection raised is that this Court lacks territorial jurisdiction to proceed with the present Petition as the dispute resolution clause, specifically Clause 22.4 of the Agreement, expressly stipulates that the Courts at Mumbai shall have the exclusive jurisdiction in relation to the Agreement.



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10. This Court has heard the preliminary objections raised by the learned counsel appearing on behalf of the parties on the aspect of maintainability of the present Petition and, with their able assistance, perused the material available on record and the reply passed across the bar.

11. This Court, insofar as the first objection is concerned, considers it apposite to reiterate that a stipulation in an arbitration agreement requiring parties to first explore amicable settlement, negotiation or conciliation as a pre-condition is merely directory in nature and not mandatory. The legal position in this regard stands succinctly settled by catena of Judgements by this Court, *inter alia*, in **Oasis Projects Ltd. vs. National Highway & Infrastructure Development Corporation Limited**<sup>3</sup> and **Kuwar Narayana vs. Ozone Overseas Pvt. Limited**<sup>4</sup>.

12. In view of the aforesaid settled position, this Court is of the considered opinion that the objection of the Respondent that the present Petition is premature on account of alleged non-compliance with Clause 22.1 is devoid of merit and therefore is liable to be rejected.

13. Adverting to the second objection concerning the territorial jurisdiction, this Court is of the view that the law in this regard is equally well settled by a catena of Judgements of the Hon'ble Supreme Court and this Court, *inter alia*, in **BGS SGS SOMA JV vs. NHPC Ltd.**<sup>5</sup>, **Ravi Ranjan Developers Private Limited vs. Aditya**

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<sup>3</sup> (2023) 1 SCC (Del) 525

<sup>4</sup> 2021:DHC:496

<sup>5</sup> (2020) 4 SCC 234



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**Kumar Chatterjee<sup>6</sup> and My Preferred Transformation and Hospitality Pvt. Ltd. Vs. Panchdeep Construction Limited<sup>7</sup>.**

14. Where an arbitration clause designates a specific seat of arbitration while the agreement also contains an exclusive jurisdiction clause in favour of another Court, the clauses are required to be harmoniously construed. In such circumstances, jurisdiction in matters arising out of arbitral proceedings ordinarily vests in the Courts exercising supervisory jurisdiction over the designated seat of arbitration, whereas other disputes, requiring filing of a suit, arising simpliciter under the contract may fall within the ambit of the exclusive jurisdiction clause, depending upon its terms.

15. A plain reading of the aforestated arbitration clause leaves no manner of doubt that the juridical seat of arbitration is New Delhi. Once the seat of arbitration stands expressly designated as New Delhi, this Court would possess the territorial jurisdiction in matters arising out of the arbitral process. Accordingly, the second objection raised by the Respondents also fails and is hereby rejected.

16. At this juncture, it is apposite to note that the legal position governing the scope and standard of judicial scrutiny under Section 11(6) of the Act is no longer *res integra*. A three-Judge Bench of the Hon'ble Supreme Court in ***SBI General Insurance Co. Ltd. v. Krish Spinning***<sup>8</sup>, after taking into consideration the authoritative pronouncement of the seven-Judge Bench in ***Interplay Between Arbitration Agreements under Arbitration Act, 1996 & Stamp***

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<sup>6</sup> 2022 SCC OnLine SC 568

<sup>7</sup> 2024:DHC:1523

<sup>8</sup> (2024) 12 SCC 1



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*Act, 1899, In re*<sup>9</sup>, comprehensively delineated the contours of judicial intervention at the stage of Section 11 of the Act. The excerpt of *Krish Spg (supra)* reads as under:-

**“(c) Judicial interference under the 1996 Act**

**110.** The parties have been conferred with the power to decide and agree on the procedure to be adopted for appointing arbitrators. In cases where the agreed upon procedure fails, the courts have been vested with the power to appoint arbitrators upon the request of a party, to resolve the deadlock between the parties in appointing the arbitrators.

**111.** Section 11 of the 1996 Act is provided to give effect to the mutual intention of the parties to settle their disputes by arbitration in situations where the parties fail to appoint an arbitrator(s). The parameters of judicial review laid down for Section 8 differ from those prescribed for Section 11. The view taken in **SBP & Co. v. Patel Engg. Ltd., (2005) 8 SCC 618** and affirmed in **Vidya Drolia v. Durga Trading Corpn., (2021) 2 SCC 1** that Sections 8 and 11, respectively, of the 1996 Act are complementary in nature was legislatively overruled by the introduction of Section 11(6-A) in 2015. Thus, although both these provisions intend to compel parties to abide by their mutual intention to arbitrate, yet the scope of powers conferred upon the courts under both the sections are different.

**112.** The difference between Sections 8 and 11, respectively, of the 1996 Act is also evident from the scope of these provisions. Some of these differences are:

**112.1.** While Section 8 empowers any “judicial authority” to refer the parties to arbitration, under Section 11, the power to refer has been exclusively conferred upon the High Court and the Supreme Court.

**112.2.** Under Section 37, an appeal lies against the refusal of the judicial authority to refer the parties to arbitration, whereas no such provision for appeal exists for a refusal under Section 11.

**112.3.** The standard of scrutiny provided under Section 8 is that of prima facie examination of the validity and existence of an arbitration agreement. Whereas, the standard of scrutiny under Section 11 is confined to the examination of the existence of the arbitration agreement.

**112.4.** During the pendency of an application under Section 8, arbitration may commence or continue and an award can be passed. On the other hand, under Section 11, once there is failure on the part of the parties in appointing the arbitrator as per the agreed

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<sup>9</sup> (2024) 6 SCC 1



procedure and an application is preferred, no arbitration proceedings can commence or continue.

113. The scope of examination under Section 11(6-A) is confined to the existence of an arbitration agreement on the basis of Section 7. The examination of validity of the arbitration agreement is also limited to the requirement of formal validity such as the requirement that the agreement should be in writing.

114. The use of the term “examination” under Section 11(6-A) as distinguished from the use of the term “rule” under Section 16 implies that the scope of enquiry under Section 11(6-A) is limited to a prima facie scrutiny of the existence of the arbitration agreement, and does not include a contested or laborious enquiry, which is left for the Arbitral Tribunal to “rule” under Section 16. The prima facie view on existence of the arbitration agreement taken by the Referral Court does not bind either the Arbitral Tribunal or the Court enforcing the arbitral award.

115. The aforesaid approach serves a twofold purpose — firstly, it allows the Referral Court to weed out non-existent arbitration agreements, and secondly, it protects the jurisdictional competence of the Arbitral Tribunal to rule on the issue of existence of the arbitration agreement in depth.

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117. In view of the observations made by this Court in *Interplay Between Arbitration Agreements under the Arbitration Act, 1996 & the Stamp Act, 1899, In re, (2024) 6 SCC 1*, 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 v. Durga Trading Corpn., (2021) 2 SCC 1* and adopted in *NTPC Ltd. v. SPML Infra Ltd., (2023) 9 SCC 385* 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 *Interplay Between Arbitration Agreements under the Arbitration Act, 1996 & the Stamp Act, 1899, In re, (2024) 6 SCC 1*.

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119. The question of “accord and satisfaction”, being a mixed question of law and fact, comes within the exclusive jurisdiction of the Arbitral Tribunal, if not otherwise agreed upon between the parties. Thus, the negative effect of competence-competence would require that the matter falling within the exclusive domain of the Arbitral Tribunal, should not be looked into by the Referral Court, even for a prima facie determination, before the Arbitral Tribunal first has had the opportunity of looking into it.



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**120.** By referring disputes to arbitration and appointing an arbitrator by exercise of the powers under Section 11, the Referral Court upholds and gives effect to the original understanding of the contracting parties that the specified disputes shall be resolved by arbitration. Mere appointment of the Arbitral Tribunal does not in any way mean that the Referral Court is diluting the sanctity of “accord and satisfaction” or is allowing the claimant to walk back on its contractual undertaking. On the contrary, it ensures that the principle of arbitral autonomy is upheld and the legislative intent of minimum judicial interference in arbitral proceedings is given full effect. Once the Arbitral Tribunal is constituted, it is always open for the defendant to raise the issue of “accord and satisfaction” before it, and only after such an objection is rejected by the Arbitral Tribunal, that the claims raised by the claimant can be adjudicated.

**121.** Tests like the “eye of the needle” and “ex facie meritless”, although try to minimise the extent of judicial interference, yet they require the Referral Court to examine contested facts and appreciate prima facie evidence (however limited the scope of enquiry may be) and thus are not in conformity with the principles of modern arbitration which place arbitral autonomy and judicial non-interference on the highest pedestal.

**122.** Appointment of an Arbitral Tribunal at the stage of Section 11 petition also does not mean that the Referral Courts forego any scope of judicial review of the adjudication done by the Arbitral Tribunal. The 1996 Act clearly vests the national courts with the power of subsequent review by which the award passed by an arbitrator may be subjected to challenge by any of the parties to the arbitration.

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**126.** The power available to the Referral Courts has to be construed in the light of the fact that no right to appeal is available against any order passed by the Referral Court under Section 11 for either appointing or refusing to appoint an arbitrator. Thus, by delving into the domain of the Arbitral Tribunal at the nascent stage of Section 11, the Referral Courts also run the risk of leaving the claimant in a situation wherein it does not have any forum to approach for the adjudication of its claims, if its Section 11 application is rejected.

**127.** Section 11 also envisages a time-bound and expeditious disposal of the application for appointment of arbitrator. One of the reasons for this is also the fact that unlike Section 8, once an application under Section 11 is filed, arbitration cannot commence until the Arbitral Tribunal is constituted by the Referral Court. This Court, on various occasions, has given directions to the High Courts for expeditious disposal of pending Section 11 applications. It has also directed the litigating parties to refrain from filing bulky



pleadings in matters pertaining to Section 11. Seen thus, if the Referral Courts go into the details of issues pertaining to “accord and satisfaction” and the like, then it would become rather difficult to achieve the objective of expediency and simplification of pleadings.

**128.** We are also of the view that *ex facie* frivolity and dishonesty in litigation is an aspect which the Arbitral Tribunal is equally, if not more, capable to decide upon the appreciation of the evidence adduced by the parties. We say so because the Arbitral Tribunal has the benefit of going through all the relevant evidence and pleadings in much more detail than the Referral Court. If the Referral Court is able to see the frivolity in the litigation on the basis of bare minimum pleadings, then it would be incorrect to doubt that the Arbitral Tribunal would not be able to arrive at the same inference, most likely in the first few hearings itself, with the benefit of extensive pleadings and evidentiary material.”

**(emphasis supplied)**

17. The decision in *Krish Spinning (supra)* thus unequivocally reiterates that the Referral Court, while exercising jurisdiction under Section 11 of the Act, is required to confine itself to a *prima facie* examination of the existence of a valid Arbitration Agreement and nothing beyond. The Court’s role is facilitative and procedural, *namely*, to give effect to the parties’ agreed mechanism of dispute resolution when it has failed, without embarking upon an adjudication of contentious factual or legal issues, which are reserved for the Arbitral Tribunal.

18. In view of the law as laid down by the Hon’ble Supreme Court in *Krish Spinning (supra)*, the scope of this Court’s jurisdiction under Section 11 of the Act is extremely circumscribed. All the contentions sought to be raised herein are matters that can appropriately be urged before the learned Arbitrator, who is legally empowered and competent to adjudicate upon the same.

19. In view of the aforestated, this Court is of the view that there is no impediment in referring the disputes herein to adjudication by a



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learned Arbitrator.

20. Further, the underlying value of the disputes is stated to be approximately Rs. 7 lacs.

21. Accordingly, this Court hereby requests **Mr. Kamal Digpaul, Advocate (Mobile No. 9582543344)**, to enter upon the reference and adjudicate the disputes *inter se* the parties.

22. The learned 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.

23. The learned Arbitrator shall be entitled to a fee in accordance with the Fourth Schedule of the Act or as may otherwise be agreed to between the parties and the learned Arbitrator.

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

25. 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.

26. Needless to state, nothing in this order shall be construed as an expression of opinion of this Court on the merits of the controversy.

27. Let the copy of the said order be sent to the learned Arbitrator through all permissible modes, including electronic mode as well.

28. Accordingly, the present Petition, along with pending Application(s), if any, stands disposed of in the above-stated terms.

**HARISH VAIDYANATHAN SHANKAR, J**  
**APRIL 17, 2026/v/DJ**