



2026:DHC:62



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% **Date of decision: 06.01.2026**+ **O.M.P. (COMM) 551/2025, I.A.32322/2025 & I.A.32323/2025****MAHAVEER SINGH RAJAWAT**PetitionerThrough: **Mr. Vivek Malik, Adv.**

versus

**M/S RADHA SARWESHWAR MARBLE AND GRANITE &
ORS.**Respondents

Through:

CORAM:**HON'BLE MR. JUSTICE AVNEESH JHINGAN****AVNEESH JHINGAN, J. (ORAL)**

1. This petition is filed under Section 34 of the Arbitration and Conciliation Act, 1996 (for short 'the Act') challenging the award dated 16.08.2025 passed by the learned sole arbitrator.

2. The facts in brief are that the petitioner is a partner in M/S Radha Sarweshwar Marble & Granite (hereinafter 'firm'), a registered partnership firm set up on 06.06.2012. The firm constitutes of three partners having equal shares. There was a dispute between the petitioner and the other partners (hereinafter 'partners'). A legal notice dated 05.06.2018 was served upon the partners to provide complete books of account. The notice dated 14.07.2018 was issued for dissolution of the firm. The arbitration proceedings were sought by issuance of the notice dated 15.09.2018 under Section 21 of the Act culminated in the impugned award.



3. The petitioner prayed declaration of being 1/3rd partner in the firm and entitled to 1/3rd share in all assets of the firm. Directions were sought to the partners of the firm to render true and correct accounts of the partnership firm along with the books of account. Prayer was for seeking directions to the partners to file bank statements, ITRs, balance sheets and other information of financial assets from 2012 onwards to assess the funds siphoned off from the firm. Lastly to direct the partners to divide the profits and losses after rendition of accounts of the firm as well as personal accounts of the partners.

4. The arbitrator framed the following issues:

- i. Whether the Claimant is entitled to recoveries of any sums from the respondents towards his 1/3rd share in the partnership business carried on under the name and style of Radha Sarweshwar Marble & Granite? OPC
- ii. Whether the Claimant is entitled to interest @ 18 % per annum of any other interest from the Respondents on the claim of 1/3rd share in the partnership business carried on under the name and style of Radha Sarweshwar Marble & Granite? OPC
- iii. Whether the Claimant is entitled to relief of rendition of accounts against the Respondents to render the true and correct accounts of the partnership firm for the financial year 2017-18 and 2018-19, till date? OPC
- iv. Which of the parties are in control of the Books of Accounts, Financial and Statutory records of the Partnership Firm Radha Sarweshwar Marble & Granite? OPParties



v. Whether there is any siphoning of business and funds from the business of the Partnership Firm Radha Sarweshwar Marble & Granite to any of the entities owned and controlled by the partners and or their representatives? OPC

5. The issues being interrelated were dealt with together. The claim of the petitioner to be declared as 1/3rd partner in the firm and entitled to 1/3rd share in the firm was admitted by the partners and no declaration was called for. The dispute regarding financial irregularities/siphoning off funds by the partners and non production of books of account despite requests was rejected on failure of the petitioner to prove the alleged irregularities. The arbitrator concluded that all the partners had contributed in preparation of the final accounts of the firm and the petitioner had access to the accounts of the firm from 2012 to 2018.

6. Learned counsel for the petitioner argued that in reply to the first legal notice the partners stated that the books of account were with the petitioner but later balance sheets were filed but the arbitrator failed to note the contradictions. The contention is that the partners by ousting the petitioner created two new partnership entities and violated Section 16 of the Indian Partnership Act, 1932 (for brevity '1932 Act') by siphoning off the funds of the firm. The submission is that there were discrepancies in the books of account and the balance sheets produced. As per the ledger accounts of the partners Dalveer Singh and Lalita Ladha had withdrawn a sum of Rs.10,74,575.27/- and Rs.6,34,394.27/- respectively and the petitioner was paid



Rs.8,24,575.26/-. The argument is that the major portion of the withdrawals by the partners was through banking channels whereas the payments made to the petitioner were in cash but on the dates of payment no cash was available as per the cash books. The grievance lastly raised is that the arbitrator has not consolidated all assets and liabilities for dissolution of the firm and to determine the share of the petitioner.

7. The petitioner being a partner in the firm and having 1/3rd share was admitted by the partners. The dispute survived with regard to the production of books of account to which the petitioner claimed to have had no access in order to determine the alleged financial irregularities committed by the partners of siphoning off the funds to the two newly created firms.

8. The arbitrator considered that the petitioner was actively involved in the business activities and was engaged in the purchases of the material. Till the year 2016 there was no dispute but in 2018 the petitioner served a notice upon the partners to produce the complete books of account for the financial years 2017-18 and 2018-19 besides other documents whereas the prayer in arbitration was for directing the partners to produce the books of account from 2012 onwards which was barred by limitation.

9. The case set up that the petitioner was only dealing with the purchases of the material and had no concern with the sales was rejected relying upon the cross-examination of the petitioner. The arbitrator took into account that the accounts cannot be prepared till the partners looking after the purchase and sale renders their accounts



and these are merged for the preparation of the financial statement. All partners of the firm contributed to the preparation of the final accounts. Further it was not the case as pleaded by the petitioner that the statements of accounts from 2012 to 2016 were not with the petitioner and yet these accounts were not produced on record. It was not a case where the petitioner had no access to the books of account of the firm. The arbitrator after perusing the material on record and the evidence adduced held that the petitioner failed to prove financial irregularities apart from making a bald statement. The notice stated that certain financial irregularities had been committed by the respondents but neither in the claim statement nor in the evidence the specific financial irregularities were pointed out or elaborated.

10. The contention that there was contradiction in the conduct of the partners having stated in the reply to the legal notice that the account books were with the petitioner and later producing the same does not enhance the case of the petitioner. The arbitrator in the facts and circumstances concluded that the petitioner had access to the books of account of the firm. Moreover, the chartered accountant had produced the financial statement for the financial year 2016-17 & 2017-18 but the petitioner failed to prove the financial discrepancies in the books of account. The grievance against the opening of the new partnership concerns by the partners being in violation of Section 16 of the 1932 Act was not an issue pressed before the arbitrator and only a suspicion was raised that the funds of the firm were siphoned off to the new partnership firms.

11. The endeavour to trace the source of funds from which the



payments were made to the petitioner is a far-fetched attempt in Section 34 proceedings in view of the limited scope of interference and this Court not acting as an appellate court. It is a trite law that in petition under Section 34 of the Act in normal course there cannot be reappreciation of the evidence and interference can only be on grounds mentioned in Section 34.

12. The last contention that all the assets and liabilities should have been clubbed before dissolution of the firm and thereafter the share of the petitioner should have been determined is ill-founded. There was no claim raised by the petitioner for dissolution of the firm.

13. The Supreme Court has consistently held that the challenge to the arbitral award can only be on the grounds provided under Section 34 of the Act. The award should not be interfered with until the conclusion arrived at is perverse. Proceedings under Section 34 cannot be equated with appellate jurisdiction and the court cannot reappreciate evidence. Interference is limited to the grounds specified under the Act, including violation of public policy, fundamental principles of Indian law or patent illegality going to the root of the matter. Mere errors of law or reassessment of evidence do not justify setting aside an arbitral award. The reference in this regard be made to the following judgements of the Supreme Court:

13.1 The Supreme Court in **Ramesh Kumar Jain vs. Bharat Aluminium Company Limited 2025 SCC OnLine SC 2857** held as under:

“28. The bare perusal of section 34 mandates a narrow lens of supervisory jurisdiction to set aside the arbitral



award strictly on the grounds and parameters enumerated in sub-section (2) & (3) thereof. The interference is permitted where the award is found to be in contravention to public policy of India; is contrary to the fundamental policy of Indian Law; or offends the most basic notions of morality or justice. Hence, a plain and purposive reading of the section 34 makes it abundantly clear that the scope of interference by a judicial body is extremely narrow. It is a settled proposition of law as has been constantly observed by this court and we reiterate, the courts exercising jurisdiction under section 34 do not sit in appeal over the arbitral award hence they are not expected to examine the legality, reasonableness or correctness of findings on facts or law unless they come under any of grounds mandated in the said provision. In ONGC Limited. v. Saw Pipes Limited¹⁴, this court held that an award can be set aside under Section 34 on the following grounds:“(a) contravention of fundamental policy of Indian law; or (b) the interest of India; or (c) justice or morality, or (d) in addition, if it is patently illegal.”

13.2 In Consolidated Construction Consortium Limited Vs. Software Technology Parks of India (2025) 7 SCC 757 it was held as under:

“46. Scope of Section 34 of the 1996 Act is now well crystallized by a plethora of judgments of this Court. Section 34 is not in the nature of an appellate provision. It provides for setting aside an arbitral award that too only on very limited grounds i.e. as those contained in Sub-sections (2) and (2-A) of Section 34. It is the only remedy for setting aside an arbitral award. An arbitral award is not liable to be interfered with only on the ground that the award is illegal or is erroneous in law which would require re-appraisal of the evidence adduced before the arbitral tribunal. If



two views are possible, there is no scope for the court to re-appraise the evidence and to take the view other than the one taken by the arbitrator. The view taken by the arbitral tribunal is ordinarily to be accepted and allowed to prevail. Thus, the scope of interference in arbitral matters is only confined to the extent envisaged Under Section 34 of the Act. The court exercising powers Under Section 34 has perforce to limit its jurisdiction within the four corners of Section 34. It cannot travel beyond Section 34. Thus, proceedings Under Section 34 are summary in nature and not like a full-fledged civil suit or a civil appeal. The award as such cannot be touched unless it is contrary to the substantive provisions of law or Section 34 of the 1996 Act or the terms of the agreement.”

13.3 In PSA Sical Terminals Pvt Ltd. vs. The Board of Trustees of V.O. Chidambranar Port Trust Tuticorin And Others (2023) 15 SCC 781 it was held:

“38. Before that, it will be apposite to refer to the judgment of this Court in MMTC Ltd. [MMTC Ltd. v. Vedanta Ltd., (2019) 4 SCC 163 : (2019) 2 SCC (Civ) 293] , wherein this Court has revisited the position of law with regard to scope of interference with an arbitral award in India. It will be relevant to refer to the following observations of this Court in MMTC Ltd. [MMTC Ltd. v. Vedanta Ltd., (2019) 4 SCC 163 : (2019) 2 SCC (Civ) 293] : (SCC pp. 166-67, paras 11-14)

“11. As far as Section 34 is concerned, the position is well-settled by now that the Court does not sit in appeal over the arbitral award and may interfere on merits on the limited ground provided under Section 34(2)(b)(ii) i.e. if the award is against the public policy of India. As per the legal position clarified through decisions of this Court prior to the



amendments to the 1996 Act in 2015, a violation of Indian public policy, in turn, includes a violation of the fundamental policy of Indian law, a violation of the interest of India, conflict with justice or morality, and the existence of patent illegality in the arbitral award. Additionally, the concept of the “fundamental policy of Indian law” would cover compliance with statutes and judicial precedents, adopting a judicial approach, compliance with the principles of natural justice, and *Wednesbury* [*Associated Provincial Picture Houses Ltd. v. Wednesbury Corpn.*, (1948) 1 KB 223 (CA)] reasonableness. Furthermore, “patent illegality” itself has been held to mean contravention of the substantive law of India, contravention of the 1996 Act, and contravention of the terms of the contract.

12. It is only if one of these conditions is met that the Court may interfere with an arbitral award in terms of Section 34(2)(b)(ii), but such interference does not entail a review of the merits of the dispute, and is limited to situations where the findings of the arbitrator are arbitrary, capricious or perverse, or when the conscience of the Court is shocked, or when the illegality is not trivial but goes to the root of the matter. An arbitral award may not be interfered with if the view taken by the arbitrator is a possible view based on facts. (See *Associate Builders v. DDA* [*Associate Builders v. DDA*, (2015) 3 SCC 49 : (2015) 2 SCC (Civ) 204] . Also see *ONGC Ltd. v. Saw Pipes Ltd.* [*ONGC Ltd. v. Saw Pipes Ltd.*, (2003) 5 SCC 705] ; *Hindustan Zinc Ltd. v. Friends Coal Carbonisation* [*Hindustan Zinc Ltd. v. Friends Coal Carbonisation*, (2006) 4 SCC 445] ; and *McDermott International Inc. v. Burn Standard Co. Ltd.* [*McDermott International Inc. v. Burn Standard Co. Ltd.*, (2006) 11 SCC 181])

13. It is relevant to note that after the 2015 Amendment to Section 34, the above position stands



somewhat modified. Pursuant to the insertion of Explanation 1 to Section 34(2), the scope of contravention of Indian public policy has been modified to the extent that it now means fraud or corruption in the making of the award, violation of Section 75 or Section 81 of the Act, contravention of the fundamental policy of Indian law, and conflict with the most basic notions of justice or morality. Additionally, sub-section (2-A) has been inserted in Section 34, which provides that in case of domestic arbitrations, violation of Indian public policy also includes patent illegality appearing on the face of the award. The proviso to the same states that an award shall not be set aside merely on the ground of an erroneous application of the law or by reappreciation of evidence.

14. As far as interference with an order made under Section 34, as per Section 37, is concerned, it cannot be disputed that such interference under Section 37 cannot travel beyond the restrictions laid down under Section 34. In other words, the court cannot undertake an independent assessment of the merits of the award, and must only ascertain that the exercise of power by the court under Section 34 has not exceeded the scope of the provision. Thus, it is evident that in case an arbitral award has been confirmed by the court under Section 34 and by the court in an appeal under Section 37, this Court must be extremely cautious and slow to disturb such concurrent findings.””

(Emphasis Supplied)

14. The view taken by the arbitrator is a possible one, is not vitiated by patent legality, perversity or conflict in public policy of India and no case is made out for interference by this Court under Section 34 of the Act.



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15. The petition is dismissed. All pending applications stand dismissed.

AVNEESH JHINGAN, J

JANUARY 6, 2026

'JK'

Reportable:- Yes