



2025:DHC:9188



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

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Date of Decision: 9th October, 2025+ **ARB. A. (COMM.) 44/2025****ANSAL HOUSING LIMITED**

.....Appellant

Through: Mr. Shashank Garg, Senior Advocate
with Mr. Aman Gupta, Mr. Anup Kashyap, Mr.
Divyam K and Mr. Balasubramanyan, Advocates.

versus

SAMYAK PROJECTS PRIVATE LIMITED

.....Respondent

Through: Mr. Vivek Kohli, Senior Advocate
with Mr. Nalin Talwar, Ms. Nikita Maheshwari
and Ms. Vasudha Chadha, Advocates.

CORAM:**HON'BLE MS. JUSTICE JYOTI SINGH****JUDGEMENT****JYOTI SINGH, J. (ORAL)****I.A. 19677/2025**

1. This application is filed on behalf of the Appellant under Section 5 of the Limitation Act, seeking condonation of delay of 13 days in re-filing the appeal.
2. For the reasons stated in the application, the same is allowed and the delay of 13 days in re-filing the appeal is condoned.
3. Application stands disposed of.

ARB. A. (COMM.) 44/2025 and I.A. 19676/2025

4. This appeal is filed under Section 37(2)(b) of the Arbitration and Conciliation Act, 1996 ('1996 Act') laying a challenge to impugned order dated 08.05.2025 passed by the learned Arbitrator on an application filed by the Appellant under Section 17 of the 1996 Act.



5. Backdrop to the impugned order, to the extent necessary is that Appellant entered into a Memorandum of Understanding ('MoU') with the Respondent on 12.04.2013 for the purpose of development and construction of commercial-cum-residential complex on a plot of land admeasuring 2.60 acres, situated at Village Sihi, Tehsil and District Gurugram, under Gurgaon-Manesar Urban Complex Master Plan. Appellant gave a non-refundable security deposit of Rs.4 crores in addition to a share in the revenue from bookings made in the project with the Respondent. Appellant was authorized to enter into agreement(s) with any allottee and as per the Appellant, there was no requirement for ratification by the Respondent, being a land owner.

6. It is averred in the appeal that construction of the project was delayed because of failure of the Respondent not being able to secure ownership title of the project land. On 07.07.2014, Appellant extended the loan of Rs.33.50 crores to the Respondent to obtain title to the land. However, in March, 2020 there was onset of COVID-19 and the things came to a standstill. On 10.11.2020 Respondent sent a legal notice terminating the MoU on false and frivolous grounds and Appellant approached this Court in a petition under Section 9 of the 1996 Act being OMP(I)(COMM) 431/2020 and also filed a petition under Section 11 being Arb. P. 135/2021. By order dated 22.01.2021, with the consent of the parties, Court appointed a Sole Arbitrator and directed Section 9 petition to be treated as an application under Section 17 of the 1996 Act.

7. It is stated that the Arbitrator observed the impasse in his order dated 31.08.2021 and voiced his concern about the interest of the flat buyers and above all, commercial interest of the parties. In light of this order, Appellant



gave its consent on 13.10.2021 to handover the subject project to the Respondent for construction and completion in terms of proposal given by the Respondent whereby Respondent assured completion of construction within 10 months and infusion of Rs.30 crores from its own funds. In order dated 13.10.2021, Arbitrator noted the proposal and directed handing over of the project on the next day, i.e. 14.10.2021 at 3.00 PM. Pursuant to this order, physical possession of the project site was handed over by the Appellant to the Respondent on 14.10.2021 along with entire record digitally.

8. It is stated that Respondent failed to complete the project in the assured time and also failed to infuse the requisite capital and in fact, started harassing the allottees by refusing to recognize them as customers and threatened to terminate the allotments. On 11.10.2022, the Arbitrator recorded the agreement of the parties that in respect of such persons who claim to be flat buyers, if there is any dispute, the Appellant and the Respondent shall sit together and Appellant shall give necessary documentary proof in its possession to show that these persons had actually booked the flats and in case the dispute persists, the same shall be brought before the Arbitrator who will decide the same. It was also directed that till the time disputes regarding any of the flat buyers are sorted out, Respondent shall not create further interest in respect of the spaces/flats, which as per information of the Appellant, have been sold out.

9. It is further stated that in another order dated 02.09.2022, Arbitrator directed that Respondent shall be free to approach the customers and demand monies which are payable under the agreement with them, which shall be deposited in an Escrow account already opened by the Respondent



and will be utilized solely for completion of the project. It was observed that overall responsibility will be of the Respondent to generate the funds and while approaching the customers, Respondent may bring to the notice of these customers orders of the Tribunal that the Respondent is permitted to complete the project and collect the monies from the customers, but while doing so, Respondent shall refrain from making any disparaging statements qua the Appellant.

10. It is averred that again during the hearing on 29.07.2023, Arbitrator directed the Appellant to send a list of all allottees with necessary particulars to the Respondent and Respondent was directed to submit its comments within a week. Appellant complied with its part of the order and supplied the necessary credentials vide email dated 16.09.2023, however, in blatant violation of Arbitrator's orders, Respondent continued with its act of terminating allotments and creating third party rights.

11. The genesis of this appeal is a flat booked by Col. Sandeep Malik in 2015 in a separate project being developed by the Appellant at Ansal Amantre, Gurugram, which was later transferred to present project, i.e. Ansal Boulevard, Sector 83, Gurugram and Builder-Buyer Agreement in respect of Unit No. G-120 was executed on 12.03.2020. Respondent contested the transfer on the ground that this was made surreptitiously without the knowledge of the Respondent and the agreement was backdated. Col. Malik filed a police complaint at Police Station Koshambi, Ghaziabad and notice was received by the Appellant, pursuant to which representatives of both parties joined investigation. Apprehending criminal action, Appellant filed an application dated 08.04.2025 before the Arbitrator under Section 17 of the 1996 Act read with Section 27(5) for necessary



interim orders, directing the Respondent to recognize the subject unit of Col. Malik and provide him the fit-out possession treating him at par with allottees who had been given units at ground floor. It is this application which was decided by the Arbitrator vide order dated 08.05.2025 impugned herein, directing the Respondent to accept the allotment of subject unit in favour of Col. Malik and to provide him fit-out possession subject to Appellant depositing a sum of Rs.75 lacs before the Tribunal in the form of Fixed Deposit Receipt and in the name of the Respondent. It was clarified that the direction of deposit of Rs.75 lacs was provisional and put increase or decrease on ascertaining the market value, since neither party could state the present value of the unit.

12. Challenging the impugned order to the limited extent of direction of deposit of Rs.75 lacs, Mr. Shashank Garg, learned Senior Counsel for the Appellant argued that the direction to deposit the money is untenable in law and deserves to be set aside. It is an admitted position that Respondent had taken the onus on itself to complete the project within 10 months and also assured that it would infuse Rs.30 crores from its own funds. It was emphasized that the Arbitrator by orders dated 11.10.2022 and 29.07.2023 repeatedly restrained the Respondent from creating third party rights as also cancelling the allotments and significantly, gave liberty to the parties to come back to the Arbitrator in case of any dispute with respect to allotment. It is in this backdrop that an application was filed under Section 17 by the Appellant when Col. Malik filed a criminal complaint in the police station so that the dispute could be resolved and the allotment could be recognized. No doubt, the Arbitrator directed the Respondent to recognize the allotment of Col. Malik with respect to the subject unit, however, the direction to deposit



money is completely illegal and without any basis and sets a wrong trend. It is urged that during the pendency of the arbitral proceedings, several disputes may arise with respect to different allottees, which the Arbitrator can be called upon to decide but imposing pre-condition of deposit in each order, will lead to unnecessary financial burden on the Appellant, despite the fact that it is the Respondent who has failed in its obligation and promise to complete the project within 10 months and the complaint by Col. Malik is also a creature of the delay caused by the Respondent, for which the Appellant cannot be made to suffer in terms of money. In any case, the direction was beyond the scope of the jurisdiction of the Arbitrator, more so, considering that Respondent had not sought such a direction and even in its counter claim, there is no relief of cancellation/termination of the existing allotments.

13. Mr. Vivek Kohli, learned Senior Counsel for the Respondent defends the impugned order and submits that there is no legal infirmity in the direction to deposit Rs.75 lacs, which will remain with the Tribunal. It is urged that it was the Appellant who had filed an application seeking interim direction to the Respondent to recognize the subject unit allegedly allotted by the Appellant to Col. Malik, in light of a criminal complaint filed by him and to save himself from further action. Respondent has consistently contested the transfer of the unit in favour of Col. Malik on multiple grounds including the fact that he was allotted unit by the Appellant in some other project developed by it after receiving consideration and the transfer was an afterthought of the Appellant, only to save itself from problems. The purported transfer and the alleged allotment of the subject unit, in any case cannot be recognized as Respondent did not receive its share in the proceeds



from Col. Malik. Moreover, it is unbelievable that he would be given allotment on the ground floor at the same rate *albeit* over the years the rates had considerably increased. It was urged that the Arbitrator has already referred the matter to Chartered Accountants for conduct of forensic audit and observed that normally, it would be prudent to await the report, but given the fact that a criminal complaint was filed by Col. Malik, Arbitrator directed the Respondent to recognize the allotment and balanced the order by directing the Appellant to deposit Rs.75 lacs. The order calls for no interference in the limited jurisdiction of this Court under Section 37(2)(b).

14. Heard learned Senior Counsels for the parties and examined their rival submissions.

15. As noted above, Appellant challenges the impugned order dated 08.05.2025 to the extent direction has been given to the Appellant to deposit Rs.75 lacs before the Tribunal in the name of the Respondent, as a pre-deposit before the Respondent recognizes the allotment of the subject unit in favour of Col. Malik. Much has been argued on both sides on the facts of the case, previous orders of the Arbitrator and the delay in completion of the project in question. Appellant blames the Respondent for delay in completion of the project despite undertaking to do so in 10 months with infusion of Rs.30 crores from its funds and also highlights the orders passed by the Arbitrator restraining the Respondent from creating third party rights and cancelling the allotments. The direction to deposit Rs.75 lacs is essentially assailed on the ground that this direction is beyond the scope of the jurisdiction of the Tribunal, more so, because Respondent did not insist on such deposit. Apprehension is raised that this order may become a precedent for further orders of this nature considering that disputes with



regard to allotments may keep arising.

16. Scope of jurisdiction of this Court while deciding an appeal from the order of the Arbitrator under Section 37(2)(b) of the 1996 Act is limited and circumscribed. It is settled that while exercising the Appellate jurisdiction under this provision, particularly, when the order in appeal is an interlocutory order passed under Section 17 of the 1996 Act, Court must restrict the examination to determine if there is any jurisdictional error or perversity of a nature which cannot be countenanced in law. The first judgment that comes to fore in the context of limitation on the powers of an Appellate Court is the judgment of the Supreme Court in ***Wander Ltd. v. Antox India (P) Ltd., 1990 Supp SCC 727*** albeit the decision does not emanate from arbitration proceedings but the principles shall apply. Relevant paras of the judgment are as follows:

“13. On a consideration of the matter, we are afraid, the appellate bench fell into error on two important propositions. The first is a misdirection in regard to the very scope and nature of the appeals before it and the limitations on the powers of the appellate court to substitute its own discretion in an appeal preferred against a discretionary order. The second pertains to the infirmities in the ratiocination as to the quality of Antox's alleged user of the trademark on which the passing-off action is founded. We shall deal with these two separately.

14. The appeals before the Division Bench were against the exercise of discretion by the Single Judge. In such appeals, the appellate court will not interfere with the exercise of discretion of the Court of first instance and substitute its own discretion except where the discretion has been shown to have been exercised arbitrarily, or capriciously or perversely or where the Court had ignored the settled principles of law regulating grant or refusal of interlocutory injunctions. An appeal against exercise of discretion is said to be an appeal on principle. Appellate court will not reassess the material and seek to reach a conclusion different from the one reached by the Court below if the one reached by that court was reasonably possible on the material. The appellate court would normally not be justified in interfering with the exercise of discretion under appeal solely on the ground that if it had considered the matter at the trial stage it would have come to a contrary



conclusion. If the discretion has been exercised by the trial court reasonably and in a judicial manner the fact that the appellate court would have taken a different view may not justify interference with the trial court's exercise of discretion. After referring to these principles Gajendragadkar, J. in Printers (Mysore) Private Ltd. v. Pothan Joseph [(1960) 3 SCR 713 : AIR 1960 SC 1156] : (SCR 721)

“... These principles are well established, but as has been observed by Viscount Simon in Charles Osenton & Co. v. Jhanaton [1942 AC 130] ‘...the law as to the reversal by a court of appeal of an order made by a judge below in the exercise of his discretion is well established, and any difficulty that arises is due only to the application of well settled principles in an individual case’.”

The appellate judgment does not seem to defer to this principle.”

17. From a reading of the observations of the Supreme Court, it is clear that an Appellate Court shall not interfere in exercise of discretion by the Court of first instance and substitute its views except where the discretion is exercised arbitrarily, capriciously or where the decision impugned is perverse and Court has ignored the settled principles of law governing grant or refusal of interim orders. It is not open to re-assess the material and if the view taken by the Court below is a reasonable or a plausible view and all relevant material has been considered, no interference is warranted solely on the ground that the Appellate Court may have taken a different view on the same set of facts and circumstances.

18. Reference may also be made in this regard to the judgment of a Co-ordinate Bench of this Court in ***Green Infra Wind Energy Limited v. Regen Powertech Private Limited, 2018 SCC OnLine Del 8273***, relevant paras of which are as follows:

“16. In my view, the Arbitral Tribunal has balanced the equity between the parties and has considered the submissions made by the parties before the Arbitral Tribunal. This Court in exercise of its power under Section 37 of the Act cannot interfere with the order passed by the Arbitral Tribunal under Section 17 of the Act unless the discretion



exercised by the Tribunal is found to be perverse or contrary to law. As an Appellate Court, the interference is not warranted merely because the Appellate Court in exercise of its discretion would have exercised the same otherwise.

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20. In view of the above, the Arbitral Tribunal having exercised its discretion and found a balance of equity between the parties, this Court in exercise of its power under Section 37(2)(b) of the Act would not interfere with the same unless it is shown that the discretion so exercised is perverse in any manner or contrary to the law. In the present case, no such exception has been made out by the appellant.”

19. In ***Ascot Hotels and Resorts Pvt. Ltd. and Another v. Connaught Plaza Restaurants Pvt. Ltd.***, 2018 SCC OnLine Del 7940; ***Shiningkart Ecommerce Pvt. Ltd. v. Jiayun Data Limited***, 2019 SCC OnLine Del 11464; and ***Sona Corporation India Pvt. Ltd. v. Ingram Micro India Pvt. Ltd. and Another***, 2020 SCC OnLine Del 300, this Court has reiterated the aforesaid principles. In ***Dinesh Gupta and Others v. Anand Gupta and Others***, 2020 SCC OnLine Del 2099, Court highlighted and emphasized that while exercising any kind of jurisdiction over arbitral orders/awards or the process itself, Court is required to maintain an extremely circumspect approach. It must be always borne in mind that arbitration is intended to be an avenue for alternative dispute resolution and not a means to multiply or foster further disputes and therefore, when the Arbitrator resolved the disputes, the resolution is entitled to due respect, save and except, for reasons set out in the 1996 Act and ordinarily the orders must be immune from judicial interference. The Court also observed that challenge under Section 37(2) is necessarily to conform to the discipline enforced by Section 5 which restricts judicial intervention in arbitral proceedings and orders passed therein to avenues provided by Part-I of the 1996 Act. Relevant



passages from the judgment are as under:

“60. In the opinion of this Court, another important, and peculiar, feature of the 1996 Act, which must necessarily inform the approach of the High Court, is that the 1996 Act provides for an appeal against interlocutory orders, whereas the final award is not amenable to any appeal, but only to objections under Section 34. If the submission of Mr. Nayar, as advanced, were to be accepted, it would imply that the jurisdiction of the Court, over the interlocutory decision of the arbitrator, would be much wider than the jurisdiction against the final award. Though, jurisprudentially, perhaps, such a position may not be objectionable, it does appear incongruous, and opposed to the well settled principle that the scope of interference with interim orders, is, ordinarily, much more restricted than the scope of interference with the final judgment.

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64. There can be no gainsaying the proposition, therefore, that, while exercising any kind of jurisdiction, over arbitral orders, or arbitral awards, whether interim or final, or with the arbitral process itself, the Court is required to maintain an extremely circumspect approach. It is always required to be borne, in mind, that arbitration is intended to be an avenue for “alternative dispute resolution”, and not a means to multiply, or foster, further disputes. Where, therefore, the arbitrator resolves the dispute, that resolution is entitled to due respect and, save and except for the reasons explicitly set out in the body of the 1996 Act, is, ordinarily, immune from judicial interference.

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66. In my opinion, this principle has to guide, strongly, the approach of this Court, while dealing with a challenge such as the present, which is directed against an order which, at an interlocutory stage, merely directing furnishing of security, by one of the parties to the dispute. The power, of the learned Sole Arbitrator, to direct furnishing of security, is not under question; indeed, in view of sub-clause (b) of Section 17(1)(ii) of the 1996 Act, it cannot. The arbitrator is, under the said sub-clause, entirely within his jurisdiction in securing the amount in dispute in the arbitration. Whether, in exercising such jurisdiction, the arbitrator has acted in accordance with law, or not, can, of course, always be questioned. While examining such a challenge, however, the Court has to be mindful of its limitations, in interfering with the decision of the arbitrator, especially a decision taken at the discretionary level, and at an interlocutory stage.

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68. It is, no doubt, possible to argue that the intent, of Section 5, is to restrict judicial intervention, with arbitral proceedings, and orders passed therein, to the avenues for such interference, as provided by Part I of the 1996 Act, and not to restrict the scope of the Sections and the provisions contained in Part I. Perhaps. Section 5 remains, however, a clear pointer to the legislative intent, permeating the 1996 Act, that judicial interference, with arbitral proceedings, is to be kept at a minimum. Significantly, in *Venture Global Engineering v. Satyam Computer Services Ltd.*, (2008) 4 SCC 190, it was opined that the scheme of the 1996 Act was “such that the general provisions of Part I, including Section 5, will apply to all Chapters or Parts of the Act”. In *State of Kerala v. Somdatt Builders Ltd.*, (2012) 3 Arb LR 151 (Ker) (DB), a Division Bench of the Kerala High Court held that the jurisdiction of the Court, under Section 37 of the 1996 Act, was also required to be interpreted in the light of the legislative policy contained in Section 5. I entirely agree.

69. The principle of least intervention by courts was held, in *Enercon (India) Ltd. v. Enercon GmbH*, to be well-recognised in arbitration jurisprudence, in almost all jurisdictions. In a similar vein, earlier in point of time, the Supreme Court held, in *P. Anand Gajapathi Raju v. P.V.G. Raju*, that Section 5 “brings out clearly the object of the new Act, namely, that of encouraging resolution of disputes expeditiously and less expensively and when there is an arbitration agreement, the Court's intervention should be minimal.” Likewise, albeit in the context of Section 34, it was held, in *McDermott International Inc. v. Burn Standard Co. Ltd.*, thus:

“The 1996 Act makes provision for the supervisory role of courts, for the review of the arbitral award only to ensure fairness. Intervention of the Court is envisaged in few circumstances only, like, in case of fraud or bias by the arbitrators, violation of natural justice, etc. the Court cannot correct errors of the arbitrators. It can only quash the award leaving the parties free to begin the arbitration again if it is desired. So, the scheme of the provision aims at keeping the supervisory role of the Court at minimum level and this can be justified as the parties to the agreement make a conscious decision to exclude the Court's jurisdiction by opting for arbitration as they prefer the expediency and finality offered by it.”

(Emphasis supplied)

20. In both *Augmont Gold Private Limited v. One97 Communication Limited*, 2021 SCC OnLine Del 4484 and *Sanjay Arora and Another v.*



Rajan Chadha and Others, 2021 SCC OnLine Del 4619, this Court observed that only where the order of the Tribunal under Section 17 suffers from patent illegality or perversity that the Court under Section 37(2)(b) would interfere. Reference may also be made in this context to a recent judgment of this Court in ***Supreme Panvel Indapur Tollways Private Limited v. National Highways Authority of India, 2022 SCC OnLine Del 4491***.

21. From a conspectus of the aforesaid judgments, it is explicitly and luminously clear that while exercising power under Section 37(2)(b), the Court is required to maintain an extremely circumspect approach keeping in mind the object and purpose of the legislation and Section 5 of the 1996 Act, which is a clear pointer to the legislative intent of keeping the Court's interference at the minimum. Before proceeding further, it would be pertinent to extract hereunder the relevant passages from the impugned order to understand the perspective and backdrop in which the impugned direction had been issued:-

“6. It is admitted by the Claimant that insofar as consideration received from Mr. Sandeep Malik for allotment of flat is concerned, the same was not shared with the Respondent. However, the explanation of the Claimant is that it had accorded two loan facilities to the Respondent and the share of the Respondent from the amount received from Mr. Sandeep Malik was adjusted against the said loan payable by the Respondent to the Claimant. During arguments, Mr. Garg, learned senior counsel for the Claimant, submitted that as per the Claimant, unit in question was allotted to Mr. Sandeep Malik way back in the year 2020 i.e., much before the disputes arose between the Parties herein and the Claimant has also received consideration for the said unit from the allottee. Therefore, it would be in the interest of both the Claimant and the Respondent that the unit in question is allotted to Mr. Sandeep Malik. It is further submitted that the Respondent has only monetary interest in the matter and even if it is ultimately found by the Tribunal that the allotment of the unit in the disputed Project was illegal, unjustified or invalid, the Respondent can always be compensated in terms of money. The Respondent has opposed



the Application.

7. Case of the Respondent, on the other hand, is that as per the Claimant's own case, Mr. Sandeep Malik was allotted unit in some other Project developed by the Claimant and the consideration was also received by the Claimant for the allotment of the said unit in the other Project. It is submitted that the purported allotment of unit to Mr. Sandeep Malik in this Project in the year 2020 is clearly an afterthought and fictitious inasmuch as had there been a genuine allotment of unit to Mr. Sandeep Malik in this Project in the year 2020, the Claimant would have paid the Respondent its share in the proceeds received from Mr. Sandeep Malik which was not done. The so-called adjustment now shown is a bogey. It is also contended that it is unbelievable that Mr. Sandeep Malik would be given the allotment in this Project at the ground floor on the same rate though rates prevalent here are far higher than the Claimant's Project Ansal Amantre. Thus, argues the Respondent, the case set up now for shifting the allotment from Ansal Amantre to this Project is clearly bogus. It is also argued by Mr. Kohli, learned senior counsel appearing for the Respondent, that this Tribunal has already referred the matter to the Chartered Accountants who are conducting forensic audit in respect of all these transactions and till the time report is given by the said Chartered Accountants, no orders for allotment of the unit in question in favour of Mr. Sandeep Malik be passed. It is also argued that if the alleged transaction is validated, it may open floodgates as many such allottees whose transactions are disputed by the Respondent would adopt the same tactics to get units allotted in their favour.

8. The Tribunal has given serious consideration to the respective contentions of the Parties. At the outset, it can be mentioned that as of now, the alleged allotment of unit in this Project by the Claimant to Mr. Sandeep Malik is under scrutiny and the Chartered Accountants are yet to submit their report. Therefore, normally, it would be prudent to await the report because of the reason that in case Mr. Sandeep Malik is given the allotment and possession of the subject unit now, and the Chartered Accountants find that the said allotment was not genuine, it would be a fait accompli as the allotment once given to Mr. Sandeep Malik would be irreversible as he is not a party to these proceedings and the Tribunal is unable to pass a conditional order making the allotment subject to the report of the Chartered Accountants or the Tribunal's final conclusion on the issue. However, the reasons given by the Claimant are the filing of criminal complaint by Mr. Sandeep Malik coupled with the argument that the Respondent can always be compensated in terms of money as the ultimate interest of the Respondent is only monetary in nature.

9. Given an overall consideration to the matter, the Tribunal would have denied the relief claimed by the Claimant and awaited the report from the Chartered Accountants. However, in order to avoid criminal proceedings



against the Claimant, which may even include the Respondent, the Tribunal is of the view that relief (a) prayed for by the Claimant in this Application be allowed subject to the condition that financial interest of the Respondent is duly protected. Therefore, this Application is disposed of with the following directions:

i) Respondent is directed to accept the allotment of Unit No. G-120, Ansal Boulevard, Sector 83, Gurgaon, in favour of Mr. Sandeep Malik and to provide him the fit-out possession.

ii) The aforesaid direction is subject to a pre-condition to the effect that Claimant deposits a sum of INR 75.00 lakh before this Tribunal in the form of Fixed Deposit Receipt which shall be prepared in the name of the Respondent and would be kept with the Tribunal till further orders. It is clarified that at the time of arguments, the Parties did not state the present value of the unit, G-120, Ansal Boulevard, Sector 83, Gurgaon. Therefore, the aforesaid direction of deposit of INR 75.00 lakh is provisional and if found necessary, the amount can be increased or decreased on ascertaining the present market value of this unit.

iii) It is made clear that this Order is passed without prejudice to the rights and contentions of both the Parties and shall not apply to any other disputed case/allotment.”

22. It can be seen from the impugned order that the Section 17 application was filed by the Appellant for a direction to the Respondent to recognize the subject unit in favour of Col. Malik and provide him the fit-out possession. Respondent had contested the application on the ground that the transfer of allotment of Col. Malik was illegal and without knowledge of the Respondent as also without sharing the sale proceeds with it. Admittedly, the application was triggered by a police complaint filed by Col. Malik at Ghaziabad, pursuant to which authorized representatives of both parties were called for investigation and Appellant apprehended further criminal action. Arbitrator analyzed the respective submissions of the parties and observed that the transactions in question pertaining to the project including alleged allotment of subject unit in favour of Col. Malik by the Appellant



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were under scrutiny and forensic audit report was awaited. It was further observed that normally, the Arbitrator would await the report for the reason that if Col. Malik is given the allotment and possession letter and subsequently, the Chartered Accountants find that the allotment was not genuine, it would be a *fait accompli* as allotment once made would be irreversible since Col. Malik is not a party to the arbitral proceedings and no conditional order can be passed making the allotment subject to the forensic report. However, keeping in view that a criminal complaint had been filed coupled with the argument that the Respondent could be compensated in terms of money, on a holistic view of the matter, the Arbitrator found a mid-path and balanced the equities by directing the Respondent to recognize the allotment and directing the Appellant to secure the Respondent by deposit of Rs.75 lacs since the Respondent categorically stated that share of the sale proceeds was not given to it. In my view, the order is a balanced and well-reasoned order passed in peculiar circumstances arising out of a police complaint, in order to protect the Appellant from further criminal action. In the limited jurisdiction under Section 37(2)(b) of the 1996 Act, the order warrants no interference and the appeal is accordingly dismissed along with pending application.

JYOTI SINGH, J

OCTOBER 9, 2025/Ch