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

Date of Decision: 6th August, 2026

Uploaded on: 10th August, 2026

\# **CNR No. DLHC010056002022**

\+ **EFA(OS) (COMM) 1/2022 & CM APPL. 6112/2022**

ANSAL PROPERTIES AND INFRASTRUCTURE LIMITED & ORS. ....Appellants

Through: Mr. Mohit Chaudhary, Mr. Kunal Sachdeva, Mr. Lakshya Yadav, Ms. Aarushi Suri, Mr. Naveen Sharma, Ms. Shreya Pandey, Ms. Mansi Mehta & Ms. Eisha Jain, Advs.

versus

LANDMARK PROPERTY DEVELOPMENT COMPANY LIMITED & ORS. .....Respondents

Through: Mr Sidhant Kumar & Ms Lahar Jain, Advs.

CORAM:
JUSTICE PRATHIBA M. SINGH
JUSTICE VIKAS MAHAJAN

Prathiba M. Singh, J. (Oral)

1. This hearing has been done through hybrid mode.

2. The present appeal has been filed under Section 13 of the Commercial Courts Act, 2015, arising out of the impugned judgment dated 5th January, 2022 *(hereinafter, 'the impugned judgment')* passed by the ld. Single Judge in ***OMP (ENF.) (COMM.) NO. 159 of 2019***, titled ***Landmark Property Development Company & Ors. v. Ansal Properties & Infrastructure Limited & Ors.*** in an application filed under Section 36 of the Arbitration and Conciliation Act, 1996 (*hereinafter 'Arbitration Act'*).

3. Before the ld. Single Judge, the Respondents – Landmark Property Development Company Limited and Ors., had sought enforcement of an

arbitral award dated 7th September, 2018 wherein several claims were awarded in favour of the Respondents. In the enforcement application filed before the ld. Single Judge, it was directed as under:

> *"Order*
> *51. The present application stands disposed of with the following directions:*
>
> *(i) APIL shall deposit, with the Registry of this Court, ₹ 32 crores (₹ 46.01 crores less ₹ 14,90,48,878/-, rounded off) being the differential amount remaining to be deposited, out of the principal amount of ₹ 46.01 crores awarded by the learned arbitrator, within a period of four weeks from today. (ii) APIL shall further deposit, with the Registry of this Court, an amount of ₹ 34 crores which has been stated by Mr. Sujoy Datta, learned Counsel briefing Ms. Tripathi, on behalf of APIL, to constitute the value of the sale consideration against transfer of the shares held by APIL in AICPL to MIPL. This deposit too, shall be made within a period of four weeks from today.*
>
> *(iii) On such deposit being made, all orders of stay, granted by this Court, against any immovable properties held by APIL, shall stand lifted. APIL shall be free to deal with its immovable properties.*
>
> *(iv) APIL shall continue, however, to maintain liquidity in its accounts at least to the extent of ₹ 120 crores.*
>
> *(v) In the event of default, by APIL, in complying with directions (i) and (ii) above, APIL shall deposit, with the Registry of this Court, an amount of ₹ 200 crores, within a period of eight weeks from today. (vi) All amounts deposited would be retained by the Registry of this Court in an interest bearing fixed deposit, and would abide by the outcome of OMP (Comm) 68/2019 and OMP (ENF) (Comm) 159/2019, and orders to be passed therein."*

4. The Appellants in the present appeal are aggrieved by this impugned judgment and have thus, preferred an appeal assailing the same, under Section 13 of the Commercial Courts Act, 2015.

5. At the outset, Mr. Sidhant Kumar, ld. Counsel for the Respondents raises a preliminary objection as to the maintainability of the present appeal under Section 13 of the Commercial Courts Act, 2015.

6. It is his submission that an order in the nature of the impugned order directing deposits, is not an appealable order under Section 37 of the Arbitration Act and hence, the appeal would also not lie under Section 13 of the Commercial Courts Act, 2015.

7. In support of this contention, reliance is placed upon the following decisions of the Supreme Court and the Co-ordinate Benches of this Court:

- ***Kandla Export Corporation & Anr. v. OCI Corporation & Anr. (2018) 14 SCC 715***
- ***Odeon Builders Pvt. Ltd. v. NBCC (India) Ltd. 2021 SCC OnLine Del 4390***
- ***Prasar Bharati v. Stracon India Limited & Anr. 2020 SCC OnLine Del 737***
- ***South Delhi Municipal Corporation v. Tech Mahindra 2019 SCC OnLine Del 11863***

8. In addition to these decisions, ld. Counsel for the Respondents has also relied upon the judgment in ***Amazon.com NV Investment Holdings LLC v. Future Retail Limited & Ors. (2022) 1 SCC 209*** to argue that the Arbitration Act is a complete code in itself and Section 37 is also a comprehensive provision, insofar as appeals from orders and awards are concerned.

9. On the other hand, Mr. Chaudhary, ld. Counsel appearing for the Appellants submits that the Commercial Courts Act, 2015 was amended in 2018 and in place of the word "*decision*" in Section 13 thereof, "*judgment or order*" has been added. Hence, any order even directing part enforcement and deposit with respect to a judgment or an order would be appealable under Section 13 of the Commercial Courts Act, 2015, read with Section 10 of the Delhi High Court Act, 1966.

10. Further, it is his submission that the judgment in ***Kandla Export Corporation & Anr. (supra)*** was rendered prior to the amendment in Section 13 of the Commercial Courts Act, 2015 and hence, there would be no doubt that the present appeal would be maintainable.

11. It is further argued that under Order XLIII Rule 1, CPC, orders passed in execution under Order XXI of the CPC would also be appealable and an order passed under Section 36 of the Arbitration Act is nothing but in equivalence with an order passed in the execution of a decree and hence, the same would be appealable.

12. Heard counsel for the parties. The Court has considered the matter. Section 13 of the Commercial Courts Act, 2015 reads as under:

> ***"Section 13. Appeals from decrees of Commercial Courts and Commercial Divisions.***
>
> *(1) [Any person aggrieved by the judgment or order of a Commercial Court below the level of a District Judge may appeal to the Commercial Appellate Court within a period of sixty days from the date of judgment or order.*
>
> *(1A) Any person aggrieved by the judgment or order of a Commercial Court at the level of District Judge exercising original civil jurisdiction or, as the case may be, Commercial Division of a High Court may appeal to*

the Commercial Appellate Division of that High Court within a period of sixty days from the date of the judgment or order:

Provided that an appeal shall lie from such orders passed by a Commercial Division or a Commercial Court that are specifically enumerated under Order XLIII of the Code of Civil Procedure, 1908 (5 of 1908) as amended by this Act and section 37 of the Arbitration and Conciliation Act, 1996 (26 of 1996).]

(2) Notwithstanding anything contained in any other law for the time being in force or Letters Patent of a High Court, no appeal shall lie from any order or decree of a Commercial Division or Commercial Court otherwise than in accordance with the provisions of this Act."

13. This provision extracted above has been considered both in the context of orders passed under Section 36 of the Arbitration Act, as also in the context of other non-appealable orders, by the Co-ordinate Benches of this Court.

14. In ***Odeon Builders Pvt. Ltd. (supra),*** the Division Bench of this Court has considered both, the ***Kandla Export Corporation (supra)*** decision as also the decision in ***Shah Babulal Khimji v. Jayaben D. Kania, (1981) 4 SCC 8.***

15. In ***Odeon Builders Pvt. Ltd. (supra),***the Division Bench of this Court has also considered the contrary view taken in the ***D & H India Ltd. v. Superon Schweisstechnik India Ltd.***[1] decided on 16th March, 2020 and has categorically held that an appeal filed u/s 13 of the Commercial Courts Act, 2015, would not be maintainable if the impugned order is not appealable under Order XLIII Rule 1 of the CPC.

16. The above judgment after considering the contrary view taken in ***D &***

1 ***D & H India Ltd. v. Superon Schweisstechnik India Ltd. [FAO(OS)(COMM) No.237/2018]***

H India Ltd. (supra) and also the submission made that the appeal would be maintainable under Letters Patent in view of the decision in ***Shah Babulal Khimji (supra)*** held that the appeal is not maintainable. The relevant extract of the said judgement in ***Odeon (supra)*** is extracted below:

> *"11) This decision of the Supreme Court in* ***Kandla Export Corporation (supra****) decided on 07.02.2018, was rendered prior to the judgement in* ***D & H India Ltd. vs. (supra)****, rendered by a Division Bench of this Court. However, this judgement was, apparently, not brought to the notice of the Division Bench and has, therefore, escaped the attention of the Division Bench.*
>
> *12) A perusal of* ***D & H India Ltd. vs. (supra)*** *shows that the Division Bench has also not referred to and dealt with, specifically Section 13 (2) of the Commercial Courts Act that, in terms, states that "notwithstanding anything contained in any other law for the time being in force or Letters Patent of a High Court****, no appeal shall lie from any order or decree of a Commercial Division or Commercial Court otherwise than in accordance with the provisions of this Act."*** *Thus, an appeal from an order passed in a commercial cause would lie only in accordance with Section 13(1) and 13(1A), and not otherwise. An appeal, by resort to the Letters Patent (in the light of the judgement of the Supreme Court in* ***Shah Babulal Khimji (supra))*** *is also not maintainable under Section 13 of the Commercial Courts Act.*
>
> *13) With due respect, the judgement of the Division Bench in* ***D & H India Ltd. (supra)*** *cannot be regarded as laying down the correct interpretation of Section 13 of the Commercial Courts Act, and we are, therefore, not bound to follow the same, since there is a contrary view of the Supreme Court. We are bound by*

the judgement of the Supreme Court. In the ordinary course, we would have referred the decision in ***D & H India Ltd. vs. (supra)*** *for reconsideration by a larger Bench since, we were inclined to take a contrary view to that taken in* ***D & H India Ltd. (Supra).*** ***However, since the issue already stands settled by the Supreme Court, there is no necessity to adopt that course of action. Hence, in our view, these appeals are not maintainable, since none of the impugned orders are appealable under Order XLIII Rule 1 of the Civil Procedure Code.***

14) The Appeals are, accordingly, dismissed."

17. Similarly, in ***Prasar Bharati (supra),*** a similar view has been taken by the Co-ordinate Bench of this Court which has observed as under:

> *"20. The present appeal is directed against an interlocutory order passed in proceedings under Section 36 of the A & C Act, whereby a part of the amount which had been deposited by the appellant in this Court, has been directed to be released in favour of the respondents.* ***Under Section 37, no appeal is maintainable from any order passed under Section 36 of the A&C Act. Further, Section 36 of the A&C Act does not attract the provisions of the Code of Civil Procedure. Since the statute does not provide for an appeal against and order passed under Section 36, it is axiomatic that the present appeal is also not maintainable. The impugned order would neither fall under Order XLIII of the CPC, nor under Section 37 of the A&C Act. Therefore, the present appeal filed under Section 13 of the Commercial Courts Act, is not maintainable."***

18. In ***South Delhi Municipal Corporation (supra),*** where the Corporation was directed to deposit 50% of the awarded amount, an appeal filed by the

Corporation, was also held to be non-maintainable:

> *"11. The reference to Order XIII Rule 1 - relied upon on behalf of SDMC in the context of this case, in the opinion of this court, is misplaced.* ***Order XIII Rule 1(a), upon which considerable emphasis was placed to say that the appeals against directions to secure amounts during pendency of proceedings applies to suits and suits alone (as is evident from Order XXXVIII and all the attendant provisions), and not to proceedings in respect of an award. Thus, reference to Order XIII to "draw in" the jurisdiction of the Division Bench, is wholly unjustified. Likewise, the Court also rejects the appellant's arguments that Section 36 of the Arbitration Act attracts the provisions of the Code of Civil Procedure. In fact, Section 36 refers to and directs courts to follow CPC in proceedings relating to enforcement of arbitral awards. The logical corollary is that the provisions of the CPC that deal with the proceeding for enforcement of decrees and orders (such as in execution like Order XXI CPC), would be attracted.***
>
> *12. In view of the above discussions, we conclude that the present appeal is not maintainable. The appellant's remedy clearly lies elsewhere. An attempt was made to urge that no litigant can be deprived of remedy if there is a grievance: ubi jus ibi remedium; however, that argument is wholly without substance because an appeal, it has been repeatedly emphasised, is a specific creation of statute and cannot be claimed as a matter of right. This was explained pithily in Ganga Bai v. Vijay Kumar, (1974) 2 SCC 393, in the following terms:*
>
>> *"There is a basic distinction between the right of suit and the right of appeal. There is an inherent right in every person to bring suit of a civil nature and unless the suit is barred by statute one may, at one's*

peril, bring a suit of one's choice. It is no answer to a suit howsoever frivolous the claim, that the law confers no such right to sue. A suit for its maintainability requires no authority of law and it is enough that no statute bars the suit. But the position in regard to appeals is quite the opposite. The right of appeal inheres in no one and therefore an appeal for its maintainability must have the clear authority of law. That explains why the right of appeal is described as a creature of statute."

19. As stated above, the Arbitration Act, as held in ***Amazon.com NV Investment Holdings LLC (supra)*** is a complete code in itself. The relevant observation of the Supreme Court in the said judgment is set out below:

> *"89. We now come to the appeal provision in the Arbitration Act. There can be no doubt that Section 37 is a complete code so far as appeals from orders and awards made under the Arbitration Act are concerned. This has further been strengthened by the addition of the non obstante clause by the Arbitration and Conciliation (Amendment) Act, 2019."*

20. Under Section 37 of the Arbitration Act, there are specific orders against which appeals are provided and those are as under:

> ***"Section 37 :Appealable orders.***
> *(1)[Notwithstanding anything contained in any other law for the time being in force, an appeal] shall lie from the following orders (and from no others) to the Court authorised by law to hear appeals from original decrees of the Court passing the order, namely:--*
> *[(a) refusing to refer the parties to arbitration under section 8;*

(b) granting or refusing to grant any measure under section 9;
(c) setting aside or refusing to set aside an arbitral award under section 34.]"

21. In addition, under Section 37(2) of the Arbitration Act, the following orders are held to be appealable:

"Section 37 ***Appealable orders***
…………..
(2) Appeal shall also lie to a court from an order of the arbitral tribunal--
(a) accepting the plea referred to in sub-section (2) or sub-section (3) of section 16; or
(b) granting or refusing to grant an interim measure under section 17."

22. The provision starts with a non-obstante clause and clearly stipulates all the orders and awards, against which appeals can be filed. Hence, the Arbitration Act is a complete code itself.

23. Section 13 of the Commercial Courts Act, 2015 leaves no doubt that only appeals which are specifically enumerated under Order XLIII, Rule 1 CPC, 1908 and Section 37 of the Arbitration Act that would lie before a Division Bench. Hence, no parallel can be drawn on the basis of a Section 36 petition being similar to an execution petition under Order XXI, CPC.

24. The Arbitration Act being a complete code , as held in ***Amazon.com NV Investment Holdings LLC (supra),*** the provisions of Order XXI or Order XLIII Rule 1 CPC which relate to Order XXI CPC cannot be used for arguing that the present appeal is maintainable.

25. Since the present appeal has been filed challenging an order passed under Section 36 of the Arbitration Act, arising out of an arbitral award dated

7th September, 2018, the provisions of CPC or the Delhi High Court Act, 1966 cannot be jettisoned in the manner as is sought to be done by the Appellant in this appeal.

26. The decisions of the Co-ordinate Benches discussed above are fully binding and the present appeal would therefore, not be maintainable.

27. The appeal is accordingly dismissed as being not maintainable. All pending applications are disposed of.

PRATHIBA M. SINGH
JUDGE

VIKAS MAHAJAN
JUDGE

AUGUST 6, 2026
Rahul/ss