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* IN THE HIGH COURT OF DELHI AT NEW DELHI

Reserved on: 12th February, 2026

Date of decision: 21st April, 2026

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+ FAO(OS) (COMM) 70/2025 & CM APPL. 24573/2025

SMT. PREM LATA SUREKHAAppellant

Through: Mr. Rajshekhar Rao, Senior Advocate,
Ms. Sangeeta Vazirani, Mr. Sachin
Yadav, Mr. Ajay Sabharwal & Mr.
Pradip Kumar, Advs. (M:
8882122726)

versus

SH. CHAKRADHARI SUREKHA & ORS.Respondents

Through: Mr. Kunal Kalra, Adv. for R-1 with R-
1 in person.

CORAM:

JUSTICE PRATHIBA M. SINGH

JUSTICE MADHU JAIN

JUDGMENT

Prathiba M. Singh, J.

1. This hearing has been done through hybrid mode.
2. This is an appeal filed by the Appellant- Smt. Prem Lata Surekha under Section 37 of the Arbitration & Conciliation Act, 1996 (*hereinafter, 'the Act'*), challenging the order dated 21st February, 2025 (*hereinafter, 'the impugned order'*) passed by Id. Single Judge of this Court in ***O.M.P. (COMM) 140/2023*** titled ***Prem Lata Surekha versus Sh. Chakradhari Surekha & Ors.***
3. *Vide* the impugned order, the Id. Single Judge dismissed the application filed by Smt. Prem Lata Surekha under Section 34 of the Act, seeking setting



aside of the arbitral award dated 2nd January, 2023 (*hereinafter, 'the arbitral award'*). Hence, the present appeal.

Factual Background

4. M/s Sri Narayan Rajkumar (*hereinafter, 'the partnership firm'*), a family run partnership firm is at the core of the present dispute. The said partnership firm was initially constituted in April, 1973, and was engaged in the business of trading, manufacturing, import exports, financing, dealerships. The partnership firm at its inception consisted of the following persons as partners:

- i. Shri. Nityanand Yadav, son of Shri Lalji Singh
- ii. Smt. Prem Lata Surekha, wife of Shri Vishnu Kumar Surekha
- iii. Shri. Chakradhari Surekha, son of Shri Sita Ram Surekha.

5. The said three partners had started carrying on business from 2nd April 1973. In addition to the said partners, the following three minors had been admitted to be the beneficiaries of the partnership firm:

- i. Master Sudhir Kumar, son of Shri K.K. Surekha;
- ii. Master Sandip Kumar, son of Shri K.K. Surekha;
- iii. Kumari Rachna, minor daughter of Shri. Raj Kumar Surekha.

6. Thereafter, the partnership firm was re-constituted vide a partnership deed dated 22nd July, 1974 and it was agreed that the partnership would continue with all the three partners, however, it was decided that out of the three minors, only Kumari Rachna was to be retained as the beneficiary in the partnership firm.

7. In addition, the said partnership deed dated 22nd July, 1974, had an arbitration clause which reads as under:

“15. Any dispute arising out of this partnership or as to



the interpretations, operations or enforcement of terms of this partnership between parties or their legal representatives shall be referred for adjudication to the arbitrators.”

8. One property namely ‘Plot No. Y-10, Naraina, New Delhi, admeasuring 450 Sq. Yards (*hereinafter, ‘the subject property’*) was acquired by the partnership firm by way of a perpetual lease deed dated 24th January, 1980.

9. In terms of the partnership deed dated 22nd July, 1974, the profit and loss of the partnership firm was to be shared in the following manner:

Sr. No.	Name	<u>Profit</u>	<u>Loss</u>
1.	Shri. Nitya Nand Yadav	25%	30%
2.	Smt. Premlata Sureka	30%	40%
3.	Shri. Chakradhari Sureka	25%	30%
4.	Ms. Rachna Sureka	20%	

PROCEEDINGS BEFORE THE LD. SOLE ARBITRATOR-

10. As per the Statement of Claim filed by Shri Chakradhari Surekha before the Id. Arbitrator, Shri. Nityanand Yadav had expired in June, 2003 and none of his legal heirs were inducted as partners in the partnership firm.

11. Before the Id. Arbitrator, the case of Shri. Chakradhari Surekha was that Smt. Prem Lata Surekha was not involving him in the business activities of the partnership firm during the lifetime of his father- Shri Sita Ram Surekha, as they were having cordial relationships - however, the father died in 2003.

12. Amongst the various allegations raised in the claim petition, Shri Chakradhari Surekha had alleged that Smt. Prem Lata Surekha and her



husband had got various documents executed with the intention to usurp all the properties of the partnership firm.

13. It was also the case of Shri Chakradhari Surekha before the Id. Arbitrator that he had suffered from cancer in 2007 and was not keeping good health. Taking advantage of his ill-health, he was never provided the proper accounts of the partnership firm by his brother and the sister-in-law-Shri. Vishnu Kumar Surekha and Smt. Prem Lata Surekha, respectively.

14. According to Shri. Chakradhari Surekha, the subsequent documents including certain lease deeds, which have all been created by Shri. Vishnu Kumar Surekha and Smt. Prem Lata Surekha showing Shri. Vishnu Kumar Surekha as one of the partners of the partnership firm are all fabricated, as he *i.e.* Shri. Chakradhari Surekha had neither ever resigned from the partnership firm, nor was the firm ever re-constituted according to him.

15. The status of Shri. Vishnu Kumar Surekha, according to Shri. Chakradhari Surekha, is merely that of the husband of the partner *i.e.*, Smt. Prem Lata Surekha.

16. Shri. Chakradhari Surekha claimed that on the basis of forged and fabricated documents, Shri. Vishnu Kumar Surekha had applied for mutation of the subject property in his own name.

17. The various partnership deeds which are alleged to have been fabricated are dated 7th February, 1985, 1st November, 1988, 24th March, 1993 and 1st April, 1999.

18. Shri Chakradhari Surekha also claims that he came to know that Shri. Vishnu Kumar Surekha had entered into an 'agreement to sell', with a third party and had accepted Rs.30 lakhs for selling 1/3rd portion of the subject property in respect of which, an FIR had also been registered by Shri



Chakradhari Surekha.

19. Various documents are relied upon by Shri Chakradhari Surekha before the Id. Arbitrator to argue how there was a plan made to deprive him of the right in the subject property. According to Shri. Chakradhari Surekha, the business of the firm was never disclosed to him and was being run by Shri. Vishnu Kumar Surekha on his own. It was, further, learned by him that Shri Vishnu Kumar Surekha had sold 155 sq. yds. of the subject property to one Smt. Lata Gupta illegally and without any authority.

20. Due to the said acts of Shri Vishnu Kumar Surekha and Smt. Prem Lata Surekha, a notice was sent by Shri Chakradhari Surekha on 23rd March, 2015, in which it was alleged that since various disputes and differences have arisen, he wishes to dissolve the partnership, and he further invoked the arbitration clause in terms of the partnership deed dated 22nd July, 1974. In the said notice dated 23rd March, 2015, Mr. Puneet Budhiraja was nominated as an Arbitrator.

21. In response thereto, on behalf of Smt. Prem Lata Surekha, a reply was sent that she has no concern with the alleged partnership deed of 22nd July, 1974. It was also alleged that Shri. Nitya Nand Yadav was maintaining all the records of the partnership firm and since he had retired, she was not aware as to who was looking after the records.

22. According to Smt. Prem Lata Surekha, the partnership deed dated 22nd July, 1974 had come to an end and hence, even the arbitration clause was no longer valid. It was also claimed that Shri Chakradhari Surekha had himself retired from the partnership about 30 years back. Hence, the nomination of the Arbitrator was opposed by Smt. Prem Lata Surekha.

23. According to Shri. Chakradhari Surekha, Smt. Prem Lata Surekha and her husband Shri. Vishnu Kumar Surekha had connived with each other with an intention to take exclusive ownership of the subject property. They had



applied for mutation and conversion of the subject property from leasehold to freehold.

24. Thus, as a follow up to the notice dated 23rd March, 2015, another notice dated 12th July, 2016 was issued by Shri Chakradhari Surekha. In the said notice, the stand taken by Shri Chakradhari Surekha was that in view of Shri Nityanand Yadav having expired and his legal heirs not having been inducted into the partnership firm, the only surviving partner of the firm, besides him, was Smt. Prem Lata Surekha.

25. Accordingly, Mr. Justice Fakhruddin, Retired Judge from the High Court of Chhattisgarh was nominated as the Arbitrator in notice dated 12th July, 2016 for the proceedings arising from the disputes amongst the parties.

26. However, since Prem Lata Surekha did not consent to the appointment of the Arbitrator who had been nominated by Shri Chakradhari Surekha, a petition under Section 11 of the Act, being *Arbitration Petition No. 457/2017* titled *Sh. Chakradhari Surekha & Anr. v. Smt. Prem Lata Surekha & Ors.* came to be filed before this Court. A petition under Section 9 of the Act was also filed by Shri Chakradhari Surekha.

27. *Vide* order dated 1st August, 2018, in *Arbitration Petition No. 457/2017*, Ms. Rekha Sharma, Former Judge of Delhi High Court was appointed as the Sole Arbitrator for disputes arising between the parties.

28. In addition, a restraint order was also passed, restraining Smt. Prem Lata Surekha and Shsri. Vishnu Kumar Surekha from creating any third party interest in the subject property. Relevant paras of the order dated 1st August, 2018, passed in *Arbitration Petition No. 457/2017*, are as under:

“20. The record shows that petitioner no. 1 had issued two notices for appointment of an arbitrator. These notices are



dated 23.03.2015 and 12.07.2016.

20.1 Respondent no. 1 resisted appointment of an arbitrator in the matter.

20.2 Clause 15 of the partnership deed dated 22.07.1974 reads as follows:-

“15. Any dispute arising out of this partnership or as to its interpretation, operations or enforcements of terms of this partnership between parties or their legal representatives shall be referred for adjudication to the arbitrators.”

20.3 As it would be evident upon perusal of the said clause, no one party has the right to appoint an Arbitrator.

20.4 In any case, respondent no. 1 has lost its right to have a say in the matter.

21. Accordingly, Ms. Rekha Sharma, Former Judge, Delhi High Court is appointed as an Arbitrator in the matter.

22. At this stage, counsel for the parties agree that arbitration proceedings be governed by rules and fee structure prescribed by the Delhi International Arbitration Centre.

22.1 It is ordered accordingly.

23. Needless to say, it will be open to the respondents to take up all defences as may be available to them in law.

24. Insofar as the petition filed under Section 9 of the Arbitration and Conciliation Act, 1996 (Act) is concerned, Mr. Kalra says that this petition can be placed before the learned Arbitrator for passing appropriate orders in exercise of her power under Section 17 of the Act.

24.1 Mr. Kalra, however, says that pending disposal of the petition Mr. Vishnu Kumar Surekha (who, as noted above, is the husband of respondent no. 1/Ms. Prem Lata Surekha) should be restrained from creating third party interest in the subject property.



25. *I tend to agree with Mr. Kalra, Accordingly, till the time, the learned Arbitrator deals with the captioned petition filed under Section 9 of the Act, Mr. Vishnu Kumar Surekha, his agents, employees etc are restrained from creating third party interest in the subject property.*

26. *Needless to say, the learned arbitrator will give full opportunity to the respondents to have their say in respect of the said petition.*

27. *Furthermore, the learned Arbitrator, after hearing parties will be free to either affirm or vacate or even vary the interim order passed by this Court.*

28. *Consequently, the aforementioned petitions are disposed of in the aforementioned terms.”*

The claim of Shri. Chakradhari Surekha was that he and Smt. Prem Lata Surekha being the two remaining partners of the firm - the property is liable to be partitioned in equal shares between them. The prayers before the Id. Arbitrator were as under:

“a) pass an award of declaration in favour of claimant no. 1 and against the respondents no.1 and 2, thereby declaring the alleged fake partnership deeds dated 07/02/1985, 01/11/1988, 24/03/1993 & 01/04/1999 executed by respondent no.1 and 2 and by Late Shri Nitya Nand Yadav or any other documents based upon the said alleged partnership deeds regarding sale with respect to Property no. Y-10, Naraina, New Delhi as null and void being forged, fabricated, sham and having no value in eyes of law and confer no right, title, interest or locus-standi upon respondents qua suit property.

b) pass an award of permanent injunction in favour of claimant no. 1 and against the respondents thereby restraining them, their heir, agents, representatives, assignees and/or anybody else on his behalf create any



third-party interest or part with the possession in the suit property on the basis of forged and fabricated documents.

c) pass an award of partition of the property no. Y-10, Naraina, New Delhi in two equal share of claimant no. 1 and respondent no. 1 herein by metes and bound, the possession of 50% of property no. Y-10, Naraina, New Delhi may also be handed over to the claimant no.1 by dividing the property no. Y-10 Naraina, New Delhi in equal share i.e. 50% each.

d) pass an award for rendition of account in favour of the claimant no.1 and against respondent no.1 and 2 thereby directing them to render the true and correct accounts of the business activity run under the name and style of the claimant no.2.

e) any other order which this Hon'ble tribunal may pass in the facts and circumstances of the present case.”

29. Pursuant to the said order, arbitration proceedings were commenced before the Id. Arbitrator and the arbitral award was passed on 2nd January, 2022. The Id. Arbitrator, after examining all the documents and the pleadings filed by all parties, arrived at the following conclusions:

I. Both sides have relied upon various partnership deeds dated 1st April, 1981, 7th February, 1985, 1st November, 1988, 24th March, 1993 and 1st April, 1999. The case of the Claimant is that these deeds are forged and fabricated, whereas, the Respondent- Smt. Prem Lata Surekha and her husband alleged that the partnership was reconstituted on several occasions, hence the subsequent partnership deeds.

I(A) On this aspect, the Id. Arbitrator held that only photocopies of the said partnership deeds were filed by the parties and since in the order of the High Court dated 1st August, 2018, the partnership deed dated 27th July, 1974, which contains the arbitration clause, was the dispute referred to



her, the Arbitrator cannot assume jurisdiction in respect of any other partnership deeds which did not have the said clause.

- I(B) In any event, since neither of the parties had placed the original partnership deeds on record and only secondary evidence was laid by Smt. Prem Lata Surekha to prove the existence of the said deeds, the same could not be held to be proven.
- I(C) Smt. Prem Lata Surekha also did not file her affidavit-in-evidence before the Id. Arbitrator, nor did she enter the witness box. Only her husband- Shri Vishnu Kumar Surekha filed an affidavit-in-evidence on the basis of a Power of Attorney issued by his wife.
- I(D) Thus, the Id. Arbitrator came to the conclusion that Smt. Prem Lata Surekha was only a partner on paper. The Id. Arbitrator then scrutinised in detail as to whether the other partnership deeds came into existence or not. The differences in the various forms which were relied upon by Shri. Vishnu Kumar Surekha was noted by the Id. Arbitrator and the same were contrasted from the ones which were finally produced by the official witness.
- I(E) The Id. Arbitrator also referred to the oral evidence which was adduced by Shri Vishnu Kumar Surekha and held that the discrepancies were not acceptable. She also observed that the following testimony of Shri. Vishnu Kumar Surekha was evasive:

“Q.7. Is it a fact that you have not placed on record any dissolution deed that Prem lata Surekha had resigned from the firm?”

Ans. I do not remember. Volt. This fact is evident from the registration of partnership firm reconstituted by



C.D. Surekha and Nityanand Yadav, and filed with the Registrar of Firms under their own signatures.

Q.8. Is it a fact that you have not placed on record any dissolution deed showing that Nityanand Yadav had resigned from the firm?

Ans. It is a matter of record. The same can be verified from the records of Registrar of Firms. The record used to be monitored by late Shri Sitaram Surekha during his Lifetime. It is correct that document filed by me with the written statement i.e., Form no.1 is a different document to the document mark-X are fabricated.”

- II. The Id. Arbitrator held that Shri Vishnu Kumar Surekha was unable to produce any partnership deed executed between Shri Chakradhari Surekha and Shri Nityanand Yadav, as also the proof of any resignation of Smt. Prem Lata Surekha, Shri Chakradhari Surekha or of Shri Nityanand Yadav.
- II(A) The Id. Arbitrator thus held that ‘Document R-2’ dated 19th October, 1981, i.e. the proof of resignation of Smt. Prem Lata Surekha from the partnership firm was, therefore, not proven.
- III. Coming to the partnership deed of 1st April, 1981, again, Id. Arbitrator observed that only a photocopy thereof was placed on record and this document was also held to have not been proved.
- III(A) Insofar as ‘Form C’ was concerned, the same was sought to be proved through an official from the Registrar of Firms. This ‘Form C’ was relied upon by the Respondent as evidence before the Id. Arbitrator for the following facts:

“23.Lastly, the respondent placed reliance on Form-C filed with her statement of defence as annexure R-3. Needless to say that the claimant denied the same. It is a communication from the Registrar of firms to the firm



M/S Narain Rajkumar acknowledging the receipt of documents mentioned therein which are being reproduced hereinbelow in verbatim:

1) Mr. Chakradhari Surekha has stand retired from the firm and Mr. Vishnu Kumar Surekha have joined the firm vide partnership deed dated 7/2/1985.

2) Mr. Nityanand Yadav has stand retired from the firm and Smt. Parmeshwari Devi Surekha have joined the firm partnership deed 1/11/1988 vide notice dt. 21/8/06”

III(B) The contents of the said document showed that it relied upon certain partnership deeds of 7th February, 1985, 1st November, 1988 and notice dated 21st August, 2006 to prove the facts, as stated above, however, none of the said documents were available on the official record of the Registrar of Firms. In conclusion, the Id. Arbitrator held as under:

“25. To sum up, given the fact that the respondent did not place any of the partnership deeds on record, nor were the same available in the official record; given the fact that the respondent neither placed on record any proof of her resignation from the partnership of 1974. nor that of the claimant from the partnership of April 1, 1981; given the fact that nothing was placed on record to prove that Nityanand Yadav had retired from the partnership, or that his accounts were settled; given the fact that the respondent did not care to file her own affidavit in support of the averments made by her; given the fact that she gave a lame excuse 'of convenience' for absencing herself from the proceedings; given the fact that the documents which the respondent had placed on record to prove the existence of the partnership deeds were totally at variance with the record summoned from the office of the Registrar of the Firms; given the fact that the official witness was deputed only to produce the record, and was not a witness of the contents of the documents produced by him) it is held that



the evidence led by the respondent was half-baked and totally perfunctory. Consequently, it is further held that the respondent. has failed to prove her defence. Hence, the same is rejected.”

Thus, according to the Id. Arbitrator none of the subsequent documents which were relied upon by Smt. Prem Lata Surekha and Shri. Vishnu Kumar Surekha were proved on record.

IV Insofar as the partnership deed dated 22th July, 1974 is concerned, the same was not disputed by either of the parties before the Id. Arbitrator. The case of the Respondent- Smt. Prem Lata Surekha was merely that the same was superseded by subsequent partnership deeds.

IV(A) Since the subsequent deeds were not proved and the partnership deed dated 22th July, 1974 was an undisputed partnership deed, the Id. Arbitrator, while placing reliance on Sections 43 and 32 of the Partnership Act, 1932, held that such a partnership could only be dissolved with the consent of all other parties, or by any one of the partners giving notice in writing to all the other parties.

IV(B) Since no evidence in this regard was led regarding the dissolution of the partnership firm with the consent of the other partner, the Id. Arbitrator came to the following conclusion:

“29. On a conjoint reading of section 32 and 43 of the Partnership Act, it is clear that the partnership of 1974 which was 'at will' could only be dissolved either with the consent of all the other partners, or by anyone of the partners giving notice in writing to all the other partners of his intention to dissolve the firm. It has already been discussed in detail, and held, that the respondent led no evidence to prove the fact that, she had resigned from the partnership of July 22, 1974, or of the fact that the claimant had resigned



from the reconstituted partnership of 1981 on August 31, 1984 or the further fact that Nityanand Yadav had also retired, and his accounts were settled. In view of the aforesaid, the partnership of July 22, 1974 continued till the claimant gave notice of dissolution of the same to the other partners on March 23, 2015. The respondent has not disputed receiving the notice. Rather she sent her reply to the same.”

- V. Another argument addressed by the Id. Arbitrator is that the claim petition filed by Shri. Chakradhari Surekha was very belated. In this regard, the Id. Arbitrator was of the opinion that the 1974 partnership deed remained alive till 23rd March, 2015. Under such circumstances, the Arbitrator came to the following conclusion:

“31.Let us assume everything against the claimant. Let us assume that he was complacent and the partnership for all intents and purposes was dysfunctional, but inertia or inaction on his part does not take away from him his right to seek dissolution in the manner provided under the Act. The partnership of 1974 may have transacted no business, but it remained alive till it was formally dissolved. At worse, it can be said that it was on ventilator, and became dead only when the claimant pulled the plug on March 23, 2015.

32.Having held that the partnership remained alive till March 23, 2015 the only other question that remains, is whether the plaintiff is entitled to the relief of partition in respect of property no. Y-10, Naraina, New Delhi in two equal shares of 50% each between him and the respondent Smt. Premlata Surekha. It has not been disputed by the respondent that the property in question stands in the name of the firm M/S Narain Rajkumar vide perpetual lease deed executed between the firm, and the Land and Housing Department of Delhi Administration. As per the claimant, Vishnu



Kumar Surekha did make an aborted attempt to get the property converted from leasehold to freehold, but on an objection from their other brother Rajkumar Snrekha who wrote to the DDA that the conversion was being sought on the basis of a forged partnership deed, the DDA reportedly declined conversion. The respondent, on the other hand, has stated that the plot was acquired in lieu of another property at Loha Mandi belonging to her father in law. Assuming it to be so even though no proof regarding the same has been furnished, it is now a thing of the past. The fact remains that, as of now the property stands in name of the firm. The respondent has also stated that the claimant did not contribute any money towards the capital of the firm, nor did he involve himself in the affairs of the firm. Since the property now is in the name of firm it is unnecessary to dig the past to know who contributed what and how much, towards the acquisition of the property. And as for the claimant not having involved himself in the affairs of the firm the same may hold true of the respondent too.

30. It is this award dated 2nd January, 2022, that was challenged before the Id. Single Judge of this Court u/s 34 of the Act. *Vide* the impugned order dated 21st February, 2025, the said petition was dismissed by the Id. Single Judge with the following observations:

*“35. A perusal of the aforesaid shows that the Arbitrator was of the opinion that due to death of other partners, only two partners, namely, Claimant (Respondent No.1 herein) and the Petitioner herein survived and the property is divided in equal proportion. **This Court, therefore, does not find any reason to interfere with the said finding. The Arbitrator also observed that the other alive partner Rachna Kedia did not come forward to contest the case and in any case, she had no share in the assets of the firm and was only entitled to profit. Since only the property***



was being divided no share has been rightly given to the other partners.

36. In view of the above, this Court does not find any reason to interfere with the Award dated 02.01.2023.”

SUBMISSIONS ON BEHALF OF THE APPELLANT BEFORE THIS COURT:

31. In the present appeal filed under Section 37 of the Act, Mr. Rajshekhar Rao, Id. Senior Counsel has made submissions on behalf of the Appellant.

32. The following are the submissions made by Mr. Rao, Id. Senior Counsel:

i. Firstly, the partnership deed of the firm had under gone several changes after it was initially executed, however, the changes in the constitution of the partnership firm and the final relief which is granted do not match. It is his submission that the Respondent No.1—Shri Chakradhari Surekha had already resigned from the partnership firm and was not entitled to any portion of the assets in the firm.

ii. The second submission is that at the time when Smt. Rachna Kedia was shown as a beneficiary of 20 % of the profits, she was a minor and under Section 30 (2), (5) and (6) of the Partnership Act, she automatically, upon attaining majority, becomes a partner in the firm and her share has not been taken into consideration by the Id. Arbitrator.

33. According to the Id. Senior Counsel, both these issues have not been dealt with by Id. Single Judge, who has brushed aside the arguments and simply held that the arbitral award doesn't deserve interference.

34. Further, it is submitted on behalf of the Appellant that insofar as Sh. Nitya Nand Yadav is concerned, his resignation prior to his demise and the



letter issued by his legal heirs thereafter would not deprive them of the proceeds of the asset, if any sold, belonging to the firm, and hence, the arbitral award dividing the property 50-50 between Smt. Prem Lata Surekha and Shri Chakradhari Surekha is not tenable.

35. Further submission on behalf of the Appellant is that the re-constitution of the partnership firm was admitted by Shri Chakradhari Surekha in the cross – examination before the Id. Arbitrator. However, the same has not been considered by the Id. Arbitrator.

36. It is also submitted on behalf of the Appellant that the Id. Arbitrator had become *functus officio* and the same has been rejected on the ground that the parties had acceded to the Arbitrator's jurisdiction after the Amendment Act, 2015 and had appeared before the Arbitrator.

37. The further submission is that certain officials from the Registrar of Firms had also appeared before the Id. Arbitrator and had tendered their evidence. However, due to some inconsistencies in one of the forms, the Id. Arbitrator had held against the Appellant.

SUBMISSIONS ON BEHALF OF THE RESPONDENTS BEFORE THIS COURT:

38. On the other hand, learned Counsel appearing for the Respondents submits that the onus of proving the re-constitution of the partnership firm was on the Appellant, which the Appellant has miserably failed to discharge. It is further submitted that on behalf of Smt. Rachna Kedia, counsels had appeared before the Id. Arbitrator but chose not to contest the matter at all. This is clear from a reading of the proceedings before the Id. Arbitrator which read as under:



“Vide a separate order, the application of respondent no. 2 under section 16 of the Arbitration and Conciliation Act, 1996 has been disposed of. Learned counsel for the claimant prays for 3 weeks time to file rejoinder to the statement of defence of respondent no.1. Learned counsels, namely, Mr. Abhinav Srivastava and Mr. Kshitij Bhardwaj appearing for respondent no.6 want to withdraw their Vakalatnama, on the ground, that they have not received instructions from the respondent. As prayed, the aforesaid advocates are allowed to withdraw from the proceedings.”

39. In addition, reference is made to the reply sent by the legal heirs of Sh. Nitya Nand Yadav in response to a notice of sent by Shri Chakradhari Surekha. The said notice dated 23rd March, 2015 was issued to Sh. Nitya Nand Yadav, in response to which in the reply, it is stated as under :

We Shiv Kumar Yadav and Shiv Ratan Yadav have received your notice dated 23.03.201. Our father Sh. Nitya Nand Yadav expired on 03.06.2003. Our father during his lifetime informed us that initially he was a partner of a firm named Sri Narain Raj Kumar and he had retired from the said partnership firm very long back and the partnership was dissolved and his accounts stood settled in the said firm.

We are not in possession of any paper pertaining to the said partnership firm and we are not aware as to whether our father was also in possession of the same or not. As far as we recall there was a severe termite attack about a year and half prior to our father's death, in which all the papers pertaining to our father and our papers which were lying at home were destroyed. On the advice of the past controller all the paper which had been damaged by termites in which there were termites were burnt. We are not aware as to whether there was any document pertaining to the partnership firm in those papers or not. We have neither any knowledge with



regard to the said firm as stated above nor we have any document with regard to the said firm. We deny all the allegation as stated by you as we have no knowledge about the same.

After receipt of your notice we have thoroughly searched all the places including our houses where we usually keep papers but have not come across any paper pertaining to any financial dealings of our father or any paper related to the stated partnership Nor are we in any way responsible for keeping or preserving any documents pertaining to your client.

Please do not involve us in any legal dealings in which your client might be indulging in as we are in no way concerned with the affairs and are also never were aware of the affairs of the said firm.”

40. Thus, it is submitted on behalf of Shri Chakradhari Surekha that since the partnership firm was dissolved long back and accounts stood settled, the legal heirs of Sh. Nitya Nand Yadav did not wish to claim any share.

41. However, it is highlighted by the Id. Counsel that despite taking this position in reply to the notice, the legal heirs of Sh. Nitya Nand Yadav took a stand to the contrary in the arbitral proceedings while filing a written statement, though not actively participated in the proceedings. In the written statement, the claim of legal heirs of Sh. Nitya Nand Yadav was that his share was sold to Sh. Vishnu Kumar Surekha and Smt. Parmeshwari Devi who are the husband and mother-in-law of the Smt. Prem Lata Surekha, respectively.

42. In any event, the submission on behalf of Shri Chakradhari Surekha is that, the scope of interference under Section 37 of the Act being very narrow, these are factual issues which did not fall within the ambit of Section 37 of the Act. So long as there is no perversity, in his submission, the arbitral award deserved to be given effect to.



43. It is also submitted that this fact has also been brought to the notice of the executing court where the matter is now pending.

44. On behalf of the Respondents, it is further submitted that invocation of this arbitration was done on 23rd March, 2015 prior to the Amendment Act, 2015, coming into existence. In terms of Section 21 of the Act, the arbitration commenced on 23rd March, 2015, just prior to the amendment itself, therefore, the Arbitrator was not rendered *functus officio*.

45. It is also submitted that the Appellant is, in fact, operating through her husband Shri Vishnu Surekha, who was instrumental in selling the middle portion of the subject property to a third party, who sought intervention before the Executing Court. The consideration from the said sale has also been usurped by the Appellant. Under such circumstances, the arbitral award, as also the impugned order of the Id. Single Judge is just and reasonable. The Executing Court is presently going into the question as to how the equities are to be balanced in terms of the Award.

46. It is further submitted on behalf of Shri Chakradhari Surekha that the partnership deeds which were relied upon by the Appellant have not been brought on record and this is clear from the evidence of 'RW-2' Mr. Manish Kumar, before the Id. Arbitrator.

47. Section 31 of the Partnership Act is relied upon to argue that no change in the partnership deed could have been brought about without the consent of Shri Chakradhari Surekha.

48. Id. Counsel for the Respondent reiterates the findings of the Id. Arbitrator that Shri Chakradhari Surekha's signature were not found in any further subsequent deed, and therefore, the 1974 partnership deed has to be considered as legal and valid. Finally, it is submitted that the Appellant's



conduct has been dishonest and, therefore, no interference is called for.

ANALYSIS & FINDINGS:

49. The primary ground that has been urged on behalf of the Appellant is that the mandate of the Id. Arbitrator had come to an end, as, by the time the second invocation took place on 12th July, 2016, the timelines in terms of the Arbitration and Conciliation Act, 1996 (amendment Act of 2015) had come into operation.

50. Thus, according to the Appellant, the mandate of the Arbitral Tribunal came to end on 31st October, 2016. The short issue before the Id. Single Judge was that the initial notice invoking arbitration was given on 23rd March, 2015 and the said invocation was not accepted by the Appellant. Thereafter, the second notice of invocation was issued on 12th July, 2016. The Id. Single Judge, while addressing the said issue in the impugned order, observed as under. In respect of the said issue, Id. Single Judge, vide the impugned order, observed as under:

“28. The issue in the present case is no longer res integra. Section 26 of the Amendment Act explicitly provides that its provisions shall not apply to arbitral proceedings that were initiated under Section 21 of the Arbitration Act prior to the commencement of the Amendment Act, unless the parties mutually agree to their application. Consequently, the Amendment Act is to be applied prospectively, barring a consensus for retrospective applicability. The key issue for determination before this Court is whether the time limits prescribed under Section 29A would extend to arbitral proceedings that were initiated before the enactment of the Amendment Act.

29. It is significant to note that the Arbitration Act, prior to its amendment in 2015, did not prescribe any time limits for the issuance of an arbitral award. The



introduction of such time limits was brought about for the first time through Section 29A, added by the Amendment Act of 2015 w.e.f. 23.10.2015. As per Section 21 of the Arbitration Act postulates that the arbitral proceedings are deemed to commence on the date the respondent receives a request for arbitration, unless otherwise agreed by the parties. In the present case, the arbitral proceedings commenced on 23.03.2015, when the notice invoking arbitration was first sent, well before the enactment of the Amendment Act. Accordingly, it must be concluded that Section 29A and the time limits stipulated therein are not applicable to this arbitral proceeding.”

51. Insofar as the merits is concerned, the Id. Single Judge, observed as under:

“18. Learned Counsel appearing for the Respondents contends that the Petitioner along with Sh. Nitya Nand Yadav was carrying on business from 02.04.1973. The partnership firm was re-constituted in the year 22.07.1974 in the name and style of M/s Sri Narain Raj Kumar. The partnership was carrying on business of trading, manufacturing, export, import and other business. It is stated that Sh. Nitya Nand Yadav passed away in June, 2003 and his legal heirs were never inducted as partners in the partnership firm. It is stated that after the death of Sh. Nitya Nand Yadav, there were only two partners left i.e., the Petitioner and the Respondent No.1 and, therefore, the argument of the Petitioner that the Petitioner had resigned from the partnership firm in the year 1974 itself is not correct as has been rightly found by the Arbitrator. It is stated that after the death of the father of the Respondent, the Respondent No.2 i.e., the brother of Respondent No.1 started creating problems. It is stated that the Respondent No.1 was time and again requesting to provide the current account of the firm which was being



denied by the Petitioner. It is stated that the Petitioner was not responding to the request made by the Respondent, then he tried to obtain certified copies of the documents from D.D.A. in month of February, 2015. It is stated that the Respondent has availed the entire file of the property and he came to know that Vishnu Kumar Surekha was acting in connivance with the Petitioner and has fabricated the partnership deeds in their favour and has claimed to be a partner of the partnership firm namely M/s Sri Narain Raj Kumar. He states that it is important to mention that the Respondent has neither resigned from the partnership firm nor any dissolution deed was ever executed by him. Hence, the subsequent partnership deeds inducting Vishnu Kumar Surekha as a partner are absolutely frivolous, false, and fabricated with sole motive to deprive the Respondent from his rightful share. It is stated that Respondent No.2 has no concern with the partnership firm but he has illegally and wrongfully fabricated partnership deeds and has misappropriated the assets of the partnership firm by selling the same. He further states that from the R.T.I., the Respondent has come to know that Vishnu Kumar Surekha has illegally entered into an agreement to sell with Mr. Umesh Garg and has taken Rs.30 Lakh from him and has agreed to sell 1/3rd of the property. It is stated that the said Mr. Umesh Garg has filed an FIR against Vishnu Kumar Surekha in which it has been proved on record that Vishnu Kumar Surekha was neither the owner nor the partner of the firm. It is stated that the status report of the concerned A.C.P. in the said case mentioning that Vishnu Kumar Surekha is not a partner of the partnership firm is already on record. He states that the Respondent has filed a criminal complaint against the Petitioner and has invoked the arbitration clause. It is stated that on 01.08.2018, the Hon'ble Delhi High Court was pleased to appoint this Hon'ble Tribunal to adjudicate the dispute between the parties. The Respondent has filed a claim enumerating



the above facts and has prayed an Award of partition of property bearing no. Y-10, Naraina, New Delhi in two equal shares by metes and bounds and the possession of 50% of the said property. He states that the respondent has also sought the Award of declaration declaring the alleged fake partnership deed as null and void apart from the Award of rendition of accounts of the partnership firm along with an Award of injunction restraining the Respondents from creating any third party interest or part with possession. It is stated that the Tribunal has given the Award after giving adequate opportunity to both the parties. It is stated that the Tribunal after assessing the entire material has come to the conclusion that the Petitioner herein (Respondent in the arbitral proceedings) had neither resigned nor any dissolution deed was executed to dissolve the partnership prior to 2015. He contends that the CW-3 - Assistant Director, DDA has affirmed that the original lease deed of the suit property is in the name of the partnership firm through its partners, namely, Chakradhari Surekha, Premlata Surekha and Nitya Nand Yadav and there is no other lease deed and the property had been converted to freehold, thereby demonstrating that the Petitioner continued in the firm. He states that the Petitioner has failed to enter into witness box and has given a power of attorney in favour of Respondent No.2 who was already creating problems in the firm.

19. *It is contended by the learned Counsel for the Respondent that Vishnu Kumar Surekha was specifically asked to show any document whereby Chakardhari Surekha had resigned from the firm but he had failed to produce the same. It is stated that Mr. Vishnu Kumar Surekha has admitted that the property is in the name of firm having the then original partners. It is stated that Vishnu Kumar Surekha has further admitted that the Form No.1 of the partnership firm filed by the Petitioner with written statement is different from*



the Form No.1 marked as Mark S. It is submitted that it is proved on record that Form No.1 and the record of Registrar of Firm have been fabricated and manipulated. It is stated that from the cross-examination of Petitioner, it has been proved that Vishnu Kumar Surekha has illegally sold the property. It is stated that it was also specifically put to the said witness as to whether there was any dissolution deed signed by the Respondent to which no reply has been given. It is stated that as per the settled principles of law, the question as to whether the suit was barred by law or not also must be judged from the aspect of cause of action, and the rights and liability of the partner in respect of partnership property would be discharged only when the firm is finally wound up and the properties of the firm are distributed. It is stated that merely execution of dissolution deed will not discharge the party thereto from their rights and liability as held in Shreedhar Govind Kamerkar v. Yesahwant Govind Kamerkar & Anr., (2006) 13 SCC 481. It is stated that in the present case it is has been proved on record that there is neither any dissolution deed nor any resignation executed by the Respondent, therefore, the claim of the Respondent is rightly allowed by the Arbitrator.

20. *Heard learned Counsel for the parties and perused the material on record.*

21. *The dispute is essentially between the Respondent No.1 herein, who was the Claimant before the arbitral proceedings and the Petitioner herein, who was the Respondent before the arbitral proceedings. Respondent No.2 is the husband of the Petitioner herein. The parties are related to each other inasmuch as, the Claimant i.e., Respondent No.1 herein and Respondent No.2 are brothers and the Petitioner herein is the wife of Vishnu Kumar Surekha who has not been arrayed as Respondent in the present petition as he was dropped during the arbitral proceedings. The dispute is primarily in respect of a plot measuring 450 sq. yards.*



at Y-10, Naraina, New Delhi. As pointed by the Arbitrator the dispute has its genesis in a partnership firm which inter-alia was doing business of traders, manufacturers, and importers in the name and style of M/s Sri Narain Raj Kumar. The firm was doing the business from 1973. It was primarily a family partnership with two partners, namely, the Petitioner and Respondent No.1 herein who belong to the same family. Mr. Nitya Nand Yadav was also a part of the partnership firm but he does not belong to the family of the Petitioner and Respondent No.1. Mr. Nitya Nand Yadav passed away in June, 2003. In addition to the said three persons, two minor sons and a daughter of Shri Rajkumar Surekha were also admitted to the partnership but only as beneficiaries. The partnership firm was re-constituted on 22.07.1974 whereby two minor sons of Shri Rajkumar Surekha were dropped but the minor daughter was continued as beneficiary. A partnership deed dated 22.07.1974 containing the terms and conditions of the partnership was drawn. The plot which is the bone of contention was purchased on 24.01.1980 on a lease-hold basis in the name of the firm M/s Narain Raj Kumar.”

52. In addition to this, the Id. Single Judge, who had made the reference of the matter to the Arbitral Tribunal vide order dated 1st August, 2018 in **Arbitration Petition No. 457/2017**, clearly noted that there were two notices for appointment of Arbitrator i.e., 23rd March, 2016 and 12th July, 2016. The relevant portion of the said order is extracted below:

“20. The record shows that petitioner no. 1 had issued two notices for appointment of an arbitrator. These notices are dated 23.03.2015 and 12.07.2016.

20.1 Respondent no. 1 resisted appointment of an arbitrator in the matter.

20.2 Clause 15 of the partnership deed dated 22.07.1974 reads as follows:



“15. Any dispute arising out of this partnership or as to its interpretation, operations or enforcements of terms of this partnership between parties or their legal representatives shall be referred for adjudication to the arbitrators.”

20.3 As it would be evident upon perusal of the said clause, no one party has the right to appoint an Arbitrator.

20.4 In any case, respondent no. 1 has lost its right to have a say in the matter.

21. Accordingly, Ms. Rekha Sharma, Former Judge, Delhi High Court is appointed as an Arbitrator in the matter.”

53. Under such circumstances, the arbitration clause having been invoked prior to the Amendment Act 2015 coming into existence, the time limits, as stipulated under Section 29A of the Act would not be applicable to the facts of this case.

54. Be that as it may, a perusal of the stamp paper with the arbitral award also shows that the same was purchased on 22nd December, 2022. The parties had thus, by consent, extended the mandate of the Id. Arbitrator and there is nothing to show the contrary. Under such circumstances it has to be presumed that the parties had, by consent, extended the mandate of the Id. Arbitrator.

55. In any event, in the present case, there is no doubt that since the invocation of arbitration is prior to the Amendment Act, 2015 coming into existence, the time limits prescribed therein would not apply.

56. Insofar as the other parties and their rights are concerned, i.e., Shri. Nityanand Yadav and Smt. Rachna Kedia, Shri. Nityanand Yadav’s legal



heirs had clearly taken the stand in their reply before Id. Arbitrator that they are not involved in the affairs of the partnership firm and that their father, during his lifetime had settled his accounts with the firm.

57. Insofar as Smt. Rachna Kedia is concerned, she was initially represented before the Id. Arbitrator but, thereafter, chose to withdraw from the proceedings.

58. Thus, the submission of Mr. Rajshekhar Rao, Id. Sr. Counsel that the said parties had stakes in the partnership firm and, therefore, the division of the property in terms of the arbitral award is not valid, is a completely meritless argument inasmuch as, once the stand of both Shri. Nityanand Yadav and Smt. Rachna Kedia had been placed before the Id. Arbitrator and they had shown no interest in claiming any rights in the assets of the firm they could not have been forced to participate in the arbitration proceedings.

59. The next aspect is in respect of the various partnership deeds and their impact. The Id. Arbitrator has undertaken a detailed analysis of all the partnership deeds which were relied upon by the parties. While the Claimant- Shri Chakradhari Surekha had placed the same in support of his prayer for declaratory relief, the Respondent- Smt. Prem Lata Surekha was relying upon the same to argue that the initial partnership deed stood re-constituted.

60. However, the Id. Arbitrator unequivocally and categorically, after analysing all the documents and comparing the same with the official records of the Registrar of Firms, came to the conclusion that the said documents had not been proved. In any case, Shri. Chakradhari Surekha had never resigned from the firm, nor had he agreed for reconstitution.

61. The Id. Arbitrator has proceeded strictly in terms of the partnership deed and has held that since there are only two surviving partners i.e., Shri.



Chakradhari Surekha and Smt. Prem Lata Surekha they are both entitled to 50% each of the suit property. The relief of partition in two equal shares is, therefore, just and valid.

62. This being the factual analysis done by the Id. Arbitrator and the same being upheld by Id. Single Judge in exercise of its jurisdiction under Section 34 of the Act, the same does not warrant interference of this Court at the stage of Section 37 of the Act, as the grounds under Section 37 are limited.

63. The Supreme Court, in its decision titled *MMTC Limited v. Vedanta Limited [2019 SCC OnLine SC 220]* discussed that the authority of the Court under Section 37 of the Act is clearly restricted to the same grounds as set out in Section 34 of the Act, so that appeals do not exceed the limits of judicial interference established for first tier challenges to arbitral awards. In the said decision, the Supreme Court held as under:

“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.”

64. Recently, the Supreme Court, in *Konkan Railway Corporation Limited v. Chenab Bridge Project [(2023) 9 SCC 85]*, while re-iterating the position on the scope of interference of Court in an appeal under Section 37 of the Act,



held that the scope of jurisdiction under Section 34 and Section 37 of the Act is not like a normal appellate jurisdiction and courts should not interfere with the arbitral award lightly in a casual and a cavalier manner. The mere possibility of an alternative view on facts or interpretation of the contract does not entitle the courts to reverse the findings of the arbitral tribunal.

65. In view of the analysis made above, and in light of the settled legal position, this Court opines that the present appeal is bereft of any merit.

66. Accordingly, this appeal is dismissed and disposed of. Pending applications, if any, are also disposed of.

67. Costs of Rs. 1,00,000/- are also imposed on the Appellant, to be paid to the Respondent- Shri Chakradhari Surekha, within a period of 2 weeks, considering that even in this appeal, all reasonable proposals for amicable resolution were refuted by the Appellant. Further, the Appellant has sold 1/3rd of the subject land without permission of the other partner of the firm. The conduct of the Appellant is thus, not *bonafide*.

68. List for compliance on 25th May, 2026.

**PRATHIBA M. SINGH
JUDGE**

**MADHU JAIN
JUDGE**

APRIL 21, 2026

dj/ss