



2026:DHC:1870



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

Date of decision: 24th FEBRUARY, 2026

IN THE MATTER OF:

+ **ARB. A. (COMM.) 4/2026**

NIKHIL KUMAR ANAND

.....Appellant

Through: Mr. Ashish Mohan, Senior Advocate
with Ms. Sagarika Wadhwa, Adv, Ms.
Soumya Sannidhanam, Adv, Mr.
Auditor Mukherjee, Adv, Ms.
Sagarika Tanwar, Adv.

versus

HRIDEY VIKRAM BHATIA & ORS.

.....Respondents

Through: Mr. Jeevesh Nagrath, Senior
Advocate with Mr. Sarthak Gupta,
Advocate

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

JUDGMENT

1. The instant appeal has been filed by the Appellant under Section 37(2)(b) of the Arbitration & Conciliation Act, 1996 (*hereinafter referred to as "The Act"*) for setting aside the Order dated 22.11.2025 (*hereinafter referred to as "Impugned Order"*) passed by the learned Sole Arbitrator in an application under Section 17 of the Act whereby a plea of interim injunction with respect to the construction site situated at Sector 142, Plot No. 6, Noida, Uttar Pradesh (**'Subject Land'**) was rejected by the learned Sole Arbitrator.

2. The Appellant is a real-estate and infrastructure developer and architect. He is also the Director of various real-estates and infrastructure companies, including KRA Infrastructure and Developers Pvt. Ltd.



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3. Material on record discloses that Respondent No.2 was established as a joint venture company (**'JVCo'**), incorporated in the year 2002 under the Companies Act, 1956. The JVCo was formed by the Respondent No.1 i.e., Hridey Vikram Bhatia and his wife i.e., Veenu Vikram Bhatia. The purpose of establishing Respondent No.2 was for planning, construction, development, operation, marketing, leasing and sale of units as well as ownership and management for developing an IT Project at the subject land admeasuring 40,315.80 sq. metres.

4. On 27.02.2007, a Share Holding Agreement (*hereinafter referred to as "SHA"*) was entered into between the Respondent No.1, wife of Respondent No.1 and a Mauritius based Company called as Ireo Investment Holding IX Limited (**'Ireo'** which later changed to **M/s Linspot Limited**). Under the said agreement, Linspot (*erstwhile 'Ireo'*) subscribed to around 49% compulsorily convertible non-cumulative preference shares of the Respondent No.2 along with subscribing to existing equity shares of the Respondent No.2.

5. On 17.02.2006, vide Reservation Cum-Allotment letter, the Respondent No. 2 was allotted the subject land by the New Okhla Industrial Development Authority (*hereinafter referred to as "NOIDA"*) for a period of 90 years. The purpose of this allotment was the development of a Software IT Unit/ L.T.E.S (*hereinafter referred to as "the Project"*)

6. The Appellant evinced interest in taking over the Project and a Term Sheet dated 29.03.2023 was executed between the Appellant, and the Respondents. *Vide* the said Term Sheet, the Appellant would acquire 100% of the shareholdings of Respondent No.2 for a consideration of Rs. 90,00,00,000/-. Clause 7(i) of the Term Sheet stipulated that the before the execution of Definitive Agreements between the contracting parties, (The



Appellant and the Respondents) Respondent No. 2 would acquire the shareholding from Linspot, which was transferred to them *vide* the SHA. A perusal of the entire Term Sheet would be necessary for a better understanding of the case. The Term Sheet is reproduced as under:-

TERM SHEET
DATED 29TH MARCH 2023

This Term Sheet capturing the broad terms of understanding between the Sellers (as defined below), the Purchaser (as defined below) and the Company (collectively referred to as the "Parties" and individually as a "Party") in respect of the Transaction (as defined below) is executed at New Delhi on this 29th day of March, 2023:

1	Background	Mr Hriday Vikram Bhatia, Promoter of Splendor Group is in the business of real estate development. The group is, inter-alia, developing a IT/ITES project (incorporating office and retail areas/ "Project") bearing Plot No.06 in Sector 142 Noida, on institutional land admeasuring 40,315.80 Sq Mtrs (10 Acre) having sanctioned FAR : 2, allotted by Noida Authority (hereinafter referred to as the "Land"), fully paid up and free from all sorts of encumbrances. The Company has obtained requisite sanctions, permissions, and approvals to commence the development of the Project in accordance with applicable laws, byelaws, rules and regulations which have been provided to the Purchaser and are subject to due diligence. Such approvals are still subsisting and valid.
2.	Company	Splendor Information Technology Private Limited
35.	Current Capital structure of the Company	
	Authorized Share Capital	Equity Shares of Rs. 10 each 105,00,000 0.01% preference shares of Rs.100 each 18,00,000
	Paid up Share Capital	Equity Shares of Rs. 10 each 21,97,000* 0.01% Preference shares of Rs. 100 each 17,52,000**
		*51.84% of Equity Share is held by Splendor Group and 48.16% is held by Linspot Limited ** Preference shares are held by Linspot Limited
		The current shareholders of the Company and the Company are parties to a Shareholders Agreement dated 27 February 2007 (hereinafter referred to as the "Shareholders Agreement").
6.	Proposed Capital structure of the Company prior to the Transaction	The Sellers are in the process of acquiring the entire equity shareholding and preference shareholding of the Company owned by Linspot Limited before execution of the Definitive Documents (as defined below).
	Authorized Share Capital	Equity Shares of Rs. 10 each 105,00,000 0.01% preference shares of Rs.100 each 18,00,000



	Paid up Share Capital	Equity Shares of Rs. 10 each 21,97,000* 0.01% Preference shares of Rs.100 each 17,52,000** *100% of Equity Share to be held by Sellers or any other entity 100% owned by Mr. Hridey Vikram Bhatia, his spouse or children ** 100% Preference shares to be held by the Sellers or any other entity 100% owned by Mr. Hridey Vikram Bhatia, his spouse or children
7.	Conditions Precedent	The Transaction is subject to the completion of the following conditions precedent to be fulfilled by the Sellers and the Company: (i) Acquisition by the Sellers of the entire equity shareholding and preference shareholding of the Company owned by Linspot Limited after (i) obtaining all regulatory and governmental approvals and (ii) complying with all provisions of the Shareholders Agreement. Termination of the Shareholders Agreement and alteration of the articles of association of the Company to give proper effect to the termination of the Shareholders Agreement. (ii) All necessary and required statutory filings of the Company must be up to date. (iii) Appointment of an affiliate of the Purchaser (likely to be KRA Infrastructure and Developers Private Limited) as the sole and exclusive contractor for the purposes of development and construction of the Project. (iv) Issue of authorization to KRA Infrastructure and Developers Private Limited) Limited to access and enter the Land for the purposes of development and construction of the Project. (v) Execution of the Definitive Documents (as defined below); (vi) Submit the application for registration of the Project under the provisions of the Real Estate (Regulation and Development) Act, 2016 and rules framed thereunder by the state government of Uttar Pradesh;



		<p>(vii) Completion of legal, financial and technical due diligence into the affairs of the Company and the Project to the satisfaction of the Purchaser; and</p> <p>(viii) Such other terms and conditions as may be considered necessary for consummation of the Transaction under applicable laws and contractual provisions applicable to the Parties and the Company.</p>
8.	Definitive Documents	<p>(i) Share Purchase Agreement;</p> <p>(ii) Deed of Indemnity from the Sellers in favour of the Purchaser for any past claims and liabilities;</p> <p>(iii) Irrevocable Power of Attorney(s) from the Sellers in respect of their Shareholding in the Company till they are transferred to the Purchaser in compliance with applicable laws and policies;</p> <p>(iv) Such other documents as may be deemed necessary for completion of the Transaction.</p>
9.	Transaction	<p>The Sellers are in process of acquiring the entire equity shareholding and preference shareholding (hereinafter referred to as the "Sale Shares") of the Company currently owned by Linspot Limited.</p> <p>Based on this assurance, the Purchasers intend to acquire the 100% shareholding of the Company (including equity shareholding and preference shareholding) with all rights, title, interest and advantages attached to them, free and clear of all Encumbrances.</p>
10.	Purchase Price and total consideration.	<p>The total purchase price for the acquisition of the entire equity shareholding and preference shareholding of the Company is <u>INR 90.00 Crore</u> (hereinafter referred to as the "Purchase Consideration")</p> <p>The Purchase Consideration shall be adjusted for other liabilities and claims which the Company may be subject to. These liabilities and claims, if any, shall be identified during the process of due diligence. If the aforesaid Purchase Consideration is adjusted then the amount remaining after such adjustment shall be deemed to be the Purchase Consideration.</p> <p>The pricing of Sale Shares shall be subject to valuation determined by the Merchant Banker / chartered accountant</p>



		in practice / registered valuer in accordance with applicable provisions of law.
11.	Payment Schedule and Mechanics of Transfer	<p>Purchase Consideration shall be paid by the Purchasers to the Sellers through normal Banking Channels, in 3 (three) tranches in following manner :-</p> <p>a. An aggregate of 23% of the Purchase Consideration ("First Installment") shall be paid by the Purchaser to the Sellers in proportion to their shareholding in the Company on or before 30 June 2023 subject to fulfilment of the conditions precedent by the Sellers;</p> <p>b. An aggregate of 22% of the Purchase Consideration ("Second Installment") shall be paid by the Purchaser to the Sellers in proportion to their shareholding in the Company on or before <u>31. 3. 24</u> and</p> <p>c. The balance consideration aggregating to 55% of the Purchase Consideration ("Final Installment") shall be paid by the Purchaser to the Sellers in proportion to their shareholding in the Company on or before 30 June 2024 with a grace period of 3 months thereafter.</p> <p>The Purchaser has paid an amount of Rs. 2.00 Crore to Mr. Hriday Vikram Bhatia vide cheque no. <u>241 A 242</u> dated <u>21.03.2023</u> drawn on <u>Bank of Baroda</u> bank as a token of its commitment towards the Transaction and such amount shall be adjusted against the portion of Purchase Consideration payable to Mr. Hriday Vikram Bhatia on execution of the Definitive Documents.</p>
12.	Execution Date	a. 30 June 2023 is the execution date subject to fulfilment of conditions precedent;
13.	Transfer and Pledge of Sale Shares	<p>(i) On payment of the First Installment of the Purchase Consideration, the Sellers shall transfer such number of Equity Shares of the Company consideration of which is equivalent to the First Installment based on valuation of shares as per clause 10 above;</p> <p>(ii) On payment of Second Installment of the Purchase Consideration, the Sellers shall transfer such number of Equity Shares of the Company consideration of which is equivalent</p>



		<p>to the Second Installment based on valuation of shares as per clause 10 above;</p> <p>(iii) On payment of the Final Installment of the Purchase Consideration, the Sellers shall create a pledge over all the remaining Equity Shares and Preference Shares (collectively the "Pledged Shares") of the Company, free and clear of all encumbrances, in favour of the Purchasers to secure the advance paid by the Purchaser for such shares. The transfer of such Pledged Shares shall take place as and when desired by the Purchaser.</p>
14.	Completion/Closing	<p>a. On payment of First Installment of the Purchase Consideration, the board of directors of the Company shall be comprised of 3 directors, one of whom shall be nominated by the Purchaser and 2 directors shall be nominated by the Sellers.</p> <p>b. On payment of Second Installment of the Purchase Consideration, the board of directors of the Company shall be comprised of 4 directors, two of whom shall be nominated by the Purchaser and 2 directors shall be nominated by the Sellers.</p> <p>c. On payment of Final Installment of the Purchase Consideration, the board of directors of the Company shall be comprised of such directors, all of whom shall be nominated by the Purchaser.</p> <p>d. 30 June 2024 is the completion /closing date with a grace period of 3 months thereafter;</p> <p>e. On Closing date, Sellers will provide the undated Resignation Letters, undated Share-Transfer Deeds (Form SH-4) subject to receipt of 100% purchase price from the Purchaser and Purchaser shall provide the relevant details of the proposed Directors and Shareholders to change the management and execute the share transfer of the Company;</p> <p>f. The existing management shall hold a Board Meeting to execute and record the share transfer</p>



		<p>and shall make necessary arrangements for the appointment of new directors;</p> <p>g. Necessary filings shall be made with the Registrar of Companies to intimate the change in management and shareholding of the Company under the provisions of the Companies Act, 2013.</p> <p>h. pursuant to the completion of the requirements of sub-clause (b to f) above, the Company shall further update the statutory registers to record the change in composition of the board of directors and the transfer of the legal and beneficial owner of the Sale Shares, and shall return duly endorsed original sharecertificates to the Purchaser.</p> <p>i. Notwithstanding the actual time periods involved in completing the above process, all proceedings to be taken and all documents to be executed and delivered by the Purchasers, Sellers and the Company shall be deemed to have been taken and executed simultaneously.</p>
15.	Other Terms and Conditions	<p>a. In case the Sellers fail to obtain approval from Reserve Bank of India to acquire shares from Linspot Limited on or before expiry of 30 June 2023 or such extended time as agreed between the Parties, the Purchaser shall have the liberty to terminate this Term Sheet and the Sellers shall have to refund all monies received by them from the Purchaser pursuant to this Term Sheet.</p> <p>b. The Company shall apply for obtaining registration of the Project under RERA on execution of this Term Sheet;</p> <p>c. The Definitive Documents shall contain such provisions which are customary in transactions similar to the Transaction including indemnities, representations and warranties etc.</p> <p>d. Each of the Sellers and the Company shall take all steps and actions required for consummation of the Transaction.</p> <p>e. The Purchasers ("Indemnifying Persons") undertakes to indemnify and save the Sellers, Company and its directors, officers, servants, agents and employees ("Indemnified Persons") harmless</p>



		<p>from and against all direct claims, liabilities, actions, proceedings, demands, losses, costs, taxes, damages and expenses whatsoever which may be brought against or suffered by the Indemnified Persons or which it or they may sustain, pay or incur, as a direct result of any matter or thing arising out of, resulting from, attributable to or connected with the business operations of the Company from the date of acquisition of 49% shareholding in the Company by the Purchasers.</p> <p>f. The Sellers ("Indemnifying Persons") undertake to indemnify and save the Purchasers and its directors, officers, servants, agents and employees ("Indemnified Persons") harmless from and against all direct claims, liabilities, actions, proceedings, demands, losses, costs, taxes, damages and expenses whatsoever which may be brought against or suffered by the Indemnified Persons or which it or they may sustain, pay or incur, as a direct result of any matter or thing arising out of, resulting from, attributable to or connected with the business operations of the Company since incorporation till the date of acquisition of 49% shareholding in the Company by the Purchasers.</p>
17.	Confidentiality	All Confidential Information disclosed by either Party shall be kept strictly confidential and shall not be disclosed by the other Party to any person or entity in any manner whatsoever, including, without limitation, by means of photocopy, reproduction or electronic media, except as may be expressly provided in this Agreement, and the receiving Party shall take all proper measures to this effect.
18.	Arbitrator	As per Arbitration Act with seat at New Delhi by a Sole Arbitrator appointed jointly by the Sellers and the Purchaser
19.	Jurisdiction	Subject to Arbitration, courts at New Delhi shall exercise jurisdiction.

7. On the same date of execution of the Term Sheet, the Appellant paid a sum of Rs.2,00,00,000/- to the Respondent No.2 by two cheques bearing Cheque Nos. 241 and 242 dated 29.03.2023 drawn from Bandhan Bank as an advance which was to be adjusted in the total purchase consideration of Rs. 90,00,00,000/-



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8. Subsequently, certain modifications were carried out in the Term Sheet and in April and May 2023, parties carried out numerous discussions *vide* emails and in person meetings.

9. On 15.05.2023, the Respondent apprehending that NOIDA may cancel the Lease Deed of the Subject Land allotted to them, credited a sum of Rs. 1,00,00,000/- back to the Appellant.

10. The allotment of Subject Land to the Respondent No. 2 was cancelled by NOIDA *vide* Order dated 26.06.2023. The Order dated 26.06.2023 is reproduced hereunder:

Formate of CANCELLATION LETTER (2)

NEW OKHLA INDUSTRIAL DEVELOPMENT AUTHORITY

Main Administrative Building, Sector-6, Noida, District Gautam Buddha Nagar-201301

Letter No. Noida / Institutional /2023/6532

Dated: 26/06/2023

Order

Allotment of Institutional Plot No. 06, Sector-142 for IT/ITES project through office letter dated 17.02.2006 to M/s. Brio Solutions (P) Ltd. It was made in favor of and the lease document of the unit was executed on 16.03.2007. Possession of the plot by the allottee was taken on 23.03.2007. Change in the constitution of the company *vide* office letter dated 30.08.2006 M/s. Brio Solutions (P) Ltd. to M/s. Splendor Information Technology Pvt. Ltd. Permission was granted to do so.

Ordinance issued by Uttar Pradesh Government on 28.07.2020 as amended, Ordinance dated 07.01.2022 and Order No. 1308/77-4-22-39N/20 dated 13.06.2022 of Industrial Development Section-4 of Uttar Pradesh Government and sent by Uttar Pradesh Government Legislative To make the unit functional as per the notification number of Section-1: 300/79-V-1-K-3-2022 dated 03.06.2022 dated 31.12.2022. The last extension till 2022 could be provided for a fee. After this period, the said allotment and lease deed will automatically be considered cancelled and the said land will vest in the authority.

In compliance with the above ordinance dated 28.07.2020 and 07.01.2022 issued by the Uttar Pradesh Government, the department issued a letter on 11.08.2020 granting paid extension till 22.03.2021 for the working certificate/occupancy certificate for the functioning of the unit. to be done. Subsequently, as a result of non-submission of occupancy certificate by the allottee, notice was issued to the allottee *vide* department's letter no. 5304 dated 19.01.2023.

The allottee has not completed the work related to the construction/operation of the building, which clearly confirms the violation of the terms and conditions of the allotment/lease document. Due to violation of the terms and conditions of the allotment and lease document by the allottee, under the provisions of the Uttar Pradesh Industrial Area Act 1976 and the ordinance dated 28.07.2020 as amended by the Uttar Pradesh Government, using the powers contained in the allotment/lease document, 07.01.2022 and the order number: 1308/77-4-22-39N/20 dated 13.06.2022 of Industrial Development Section-4 of Uttar Pradesh Government and



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notification number of Legislative Section-1 of Uttar Pradesh Government: 300/79-V- In compliance with 1-A-3-2022 dated 03.06.2022 and due to non-operation of the unit by constructing the building even after lapse of 16 years from the date of execution of the lease document, allotment of institutional plot number: 06, Sector-142 with immediate effect. is cancelled and the amount deposited against the plot is confiscated in favor of the authority as per rules.

The allottee is directed to hand over the physical possession of the referred plot to the authority, otherwise the authority will take action to take back the possession of the plot by force.

The above orders are being issued after approval from the competent level. Copy:-

Officer on Special Duty (Institutional)

1. M/s. Splendor Information Technology Pvt. Ltd., Unit No. 131, Splendor Forum, Plot No. 3, Jasola District Centre, New Delhi-110025.
2. General Manager Planning/Building Cell, Noida.
3. Sent to the Senior Manager, Work Circle-8, Noida with the intention to take action of pasting a copy of the cancellation order on the plot after getting it back in favor of the authority within 7 days from the date of issue of physical possession letter of the referred plot. Make sure to get it done also. Compliance with the deadline is mandatory.
4. To the Accounts Department (Institutional) for information. Officer on Special Duty (Institutional)

11. The Respondents subsequently again refunded Rs. 1,00,00,000/- on two occasions, i.e., on 12.07.2023 (Rs. 50,00,000) and 13.07.2023 (Rs. 50,00,000) respectively. Hence, the Respondents refunded the entire amount of Rs. 2,00,00,000/- back to the Appellant.

12. Steps were taken by the Respondent because of which the cancellation order was revoked and the Respondent started the project with some other party. After the project was restored, the Appellant approached this Court by filing a petition being O.M.P.(I) (COMM.) 171/2024 under Section 9 of the



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Act. On 28.05.2024, the said petition was disposed of, wherein this Court did not grant any interim relief. However, the Court appointed a sole arbitrator for adjudication of disputes between the parties, and granted liberty to the parties to file an application under Section 17 of the Act.

13. The Arbitral Tribunal was constituted. The Appellant filed an application under Section 17 of the Act seeking interim relief. Relief as sought by the Appellant under Section 17 Application is reproduced hereunder:

“(a) Pass appropriate orders injuncting the Respondents to launch and execute the project, namely ‘ONYX – The Only Gem’ or any other name on the Subject Land;

(b) Pass appropriate orders restraining the Respondents or its agents or its assignees from commencing construction on the subject land, i.e., plot of land spread over an area of 40,315.80 sq. meters situated at Sector 142, Plot No. 6, Noida, Uttar Pradesh;

(c) Pass appropriate Orders restraining the Respondents or its agents, assignees from collecting any money or booking any units on the project/ site in question and to deposit any monies, if already collected/ received, before this Hon’ble Arbitral Tribunal;

(d) Pass appropriate Orders restraining the Respondents or its agents, assignees from creating any third party interest in the Subject Land;

(e) Pass any such order(s) as this Hon’ble Arbitral Tribunal may deem fit and proper in the interest of justice”



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14. By the Impugned Order, the Arbitral Tribunal refused to grant any injunction restraining the Respondents from launching and executing the Project with other parties. The Tribunal held that *prima facie*, the Term Sheet contained only broad terms of understanding and facets such as Definitive Documents which were yet to be worked out. The Tribunal did not make any observations regarding the contingent nature of the Term Sheet and stated that the issue of contingent nature of the term sheet, wrongdoings of the respondents and uncertainty with respect to the consideration paid are contentions left open for trial.

15. The following arguments were advanced on behalf of the parties in the Arbitration proceedings.

16. It was the case of the Appellant that Respondent No.1 without any prior discussion and intimation, refunded the entire amount of Rs.2,00,00,000/- to the Appellant. A sum of Rs.1,00,00,000/- was returned on 15.05.2023 and the balance amount of Rs.1,00,00,000/- was returned back by a bank transfer on two different dates i.e., a sum of Rs.50,00,000/- on 12.07.2023 and Rs.50,00,000/- on 13.07.2023. This was in violation of Clause 15(a) of the Term Sheet as per which only the Appellant had the right to terminate the Term Sheet.

17. It was submitted that the Term Sheet was a concluded contract between the parties, which had been signed by all the parties and contained specific obligations, terms and guidelines. Further, the Respondents acted on the Term Sheet by sharing approved building plans, development agreements, etc.



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18. The Appellant further stated before the learned Arbitrator that it was always ready to perform their part of the contract. The Appellant in fact paid a sum of Rs. 2,00,00,000/-, towards the fulfilment of the conditions of the Term Sheet which has been refunded. It was the case of the Appellant that since the Term Sheet was a concluded document, the Respondents could not have unilaterally cancelled it, scrapped the project and re-launched under a new name. It was alleged that the Respondents were taking advantage of their own wrongs without there being any cogent reason whatsoever to terminate the contract.

19. Subsequent argument raised by the Appellant before the Tribunal was that despite the Term Sheet being a concluded contract the Respondent launched the Project on the subject land under the name 'Splendour Gem of Noida'. Thereafter the Respondent no. 2 scrapped the erstwhile project and launched a new project on the subject land by the name 'ONYX, the only Gem' which was launched in March 2024 and registered under UP RERA. This, as per the Appellant, amounts to a breach of clause 7(iii) of the Term Sheet where the affiliate of the Appellant was agreed to be the sole and exclusive contractor for the development of the Project, and Clause 9 where the 100% shareholding of the Respondent No. 2 was agreed to be transferred to the Appellant.

20. With respect to the cancellation of allotment of the Subject Land to the Respondent No. 2, it was argued that the cancellation was on account of the Respondent's continued non-compliance with the terms of the allotment and the Respondents cannot rely on their own failure to evade contractual obligations under the Term Sheet. This cancellation took place on account of the violation of the Office Order dated 10.09.2020 which prohibited the



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transfer of more than 49% of the shareholdings of the Respondent No.2. In addition to this, it is the case of the Appellant that it was the primary responsibility of the Respondent to satisfy all regulatory approvals which it had failed to do.

21. *Per Contra*, it was the case of the Respondents that as soon as it anticipated the cancellation of the allotment of the Subject Land, it informed the Appellant of the same. Thereafter, it was agreed between the parties that the amount of Rs. 2,00,00,000/- should be refunded. Following this, the Respondent immediately refunded an amount of Rs. 1,00,00,000/-. An additional refund of Rs.1,00,00,000/- was made by the Respondents after receiving the official intimation regarding plot cancellation and forfeiture of deposits. This cancellation in turn led to the frustration of the Term Sheet.

22. On the question of the Term Sheet being a concluded one or not, it was the case of the Respondent that the term sheet was tentative, conditional and non-binding. It was mere exploratory in nature and was to be followed by execution of definitive terms/ agreements, which were not executed between the parties.

23. It was submitted by the Respondents that the Term Sheet was a contingent contract dependent on acquisition of Respondent No.2 shareholding from M/s Linspot Limited and obtaining regulatory approval. As these condition precedents were not fulfilled, it was not a concluded contract.

24. It was further stated by the Counsel for the Respondents that as the Appellant has accepted the refund of Rs. 2,00,00,000/- without any protest, it reflects that the Appellant has accepted the termination of the Term Sheet.



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Further reliance was placed on subsequent communications between the parties to state the Term Sheet was terminated mutually.

25. It was submitted on behalf of the Respondents that after a lot of efforts, the allotment was restored subject to the completion of the Project by 17.12.2025. On account of the restoration of the Project, the Respondent has moved for registration under UP RERA and third party rights had already been created inasmuch as out of 550 allottees, 375 units have already been sold and an Agreement to Sell was also entered into between the allottees. Hence any relief at this stage would jeopardise these rights and breach regulatory timelines in the completion of the Project.

26. After hearing the parties in the arbitration proceedings, the learned Arbitrator *vide* the Impugned Order dated 22.11.2025 came to a conclusion that the Term Sheet does not contain any term to the effect that it is 'binding' or 'non-binding'. Rather, the header carries the words "*For Discussion Purposes Only*". The learned Arbitrator also noted that the Term Sheet contains only "broad terms of understanding" and facets such as the Definitive Documents were yet to be worked out. The transaction was subject to certain conditions precedents which included acquisition of entire shareholding of Respondent No. 2 from M/s Linspot Ltd and obtaining regulatory approval. Relying on the observations made in a judgment of a Division Bench of Karnataka High Court in Azeem Infinite Dwelling (India) Pvt. Ltd. v. Patel Engineering Ltd., (2024) SCC OnLine Karnataka 10320, the Tribunal refused to grant any interim relief on the basis of the Term Sheet.



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27. The Learned Senior Counsels for both the parties advanced the following submissions before this Court.

28. Learned Senior Counsel appearing on behalf of the Appellant states that *vide* Clause 15 (a) of the Term Sheet, only the Purchaser, i.e., the Appellant, had the right to terminate the contract and therefore, the contract in its nature was not determinable at the instance of the Respondents. The contract being of such nature, could only be specifically enforced at the instance of the Appellant. Reliance has been placed on Section 14 (d) of the Specific Relief Act, 1963.

29. It is also contended by learned Senior Counsel appearing on behalf of the Appellant that the present case is not one where the contract could not be performed at all. Attention of this Court has been drawn to Clause 7 of the Term Sheet which provides conditions precedent which were to be performed only by the Respondents, inter-alia, acquisition of shareholding back from Linspot to Respondent No. 2 Company and procuring regulatory approvals. Learned Counsel states that on performing the conditions precedent which were only attributable to the Respondents, Definitive Documents were to be entered into which were defined in Clause 8 of the Term Sheet.

30. Learned Senior Counsel on behalf of the Appellant placed reliance on Section 12 of the Specific Relief Act, 1963. He states that the entire contract could not be performed due to a bar in transfer of 100% shares of Respondent No. 2 Company to the Appellant, as per the Office Order issued by NOIDA. He states that even otherwise, the Contract be enforced to the extent possible, i.e., 49% of the shareholding can be acquired by the



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Appellant and the remaining portion could be compensated in terms of damages which is a matter of trial before the Tribunal. In this context, the learned Arbitrator ought to have restrained the Respondents from proceeding ahead with the Project during the pendency of the arbitration.

31. The sum and substance of the contention of the learned Senior Counsel for the Appellant is that an existence of a Term Sheet should bind the parties and be enforced in terms of the correspondence exchange between the parties. Reliance has been on the judgments of the Apex Court in Trimex International FZE Limited v. Vedanta Aluminium Limited, India, (2010) 3 SCC 1, York Tech Pvt. Ltd. v. Delhi Development Authority, (2022) SCC OnLine Del 3564 and a judgment by the Division Bench in Delhi Development Authority v. York Teck Pvt. Ltd., (2023) SCC OnLine Del 3796, affirming the judgment of the learned Single Judge.

32. It is reiterated that since the Appellant is prepared to perform his part of the contract, the relief in the performance of the contract is no longer a discretionary relief. He states that Section 12 of the Specific Relief Act is to be construed and interpreted in a purposive manner to direct specific performance by the defaulting party. It is the case of the Appellant that a reading of the Term Sheet and communications between the parties goes on to prove that the Respondents who were party to the contract deliberately tried to frustrate the contract by way of an abrupt and un-explained refund. Therefore, a direction of specific relief may be granted against the Respondents and in favour of the Appellant to the extent possible, and damages be granted to the part of the contract that has to be left unperformed. Reliance has been placed on the judgments of the Apex Court in B. Santoshamma And Another v. D. Sarala And Another, (2020) 19 SCC



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80 and Parswanath Saha v. Bandhana Modak (Das) and Another, (2024) SCC OnLine SC 3834.

33. It was further reiterated that the Respondents were only taking advantage of its own default by not performing their part of the contract on arbitrary grounds. Reliance has been placed on the judgments of the Apex Court in Kusheshwar Prasad Singh v. State of Bihar And Others, (2007) 11 SCC 447, Haryana Financial Corporation And Another v. Rajesh Gupta, (2010) 1 SCC 655.

34. *Per contra*, learned Senior Counsel appearing on behalf of the Respondents contends that the application under Section 17 was only an abuse of process of law. He states that the interference by the Court under Section 37 (2)(b) of the Act is permissible only if the Impugned Order suffers from patent illegality or is completely questionable under the law or in fact. He further contends that the Court while deciding an Appeal under Section 37(2)(b) cannot substitute its own conclusion as drawn by the learned Arbitrator as the jurisdiction under Section 37(2)(b) is extremely narrow.

35. In any event under the Term Sheet, Clause 7 stipulates the execution of the Definitive Documents/Agreement which are further described in Clause 8 of the Term Sheet. From the perusal of the record, it was clear that the parties were in continuous meetings and negotiations for the execution of these documents. Despite several meetings, the parties did not end up executing these Definitive Documents/Agreements as enumerated in Clause 7 read with Clause 8. Reliance has been placed on a judgment of the Apex



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Court in Mayawanti v. Kaushalya Devi, (1990) 3 SCC 1 wherein it was observed as under:-

“18. The specific performance of a contract is the actual execution of the contract according to its stipulations and terms, and the courts direct the party in default to do the very thing which he contracted to do. The stipulations and terms of the contract have, therefore, to be certain and the parties must have been consensus ad idem. The burden of showing the stipulations and terms of the contract and that the minds were ad idem is, of course, on the plaintiff. If the stipulations and terms are uncertain, and the parties are not ad idem, there can be no specific performance, for there was no contract at all. Where there are negotiations, the court has to determine at what point, if at all, the parties have reached agreement. Negotiations thereafter would also be material if the agreement is rescinded.”

36. It is the case of the Respondents that based on the record and submissions of the parties, the Tribunal held that whether the Term Sheet and negotiations with respect to the Term Sheet were indicative of a concluded contract or not would be a matter of trial and it could not be said that a *prima facie* case was in favour of the Appellant warranting an injunction. Further, since the Definitive Agreements were not entered into, it could not have been said that the terms of the contract had been crystallized demonstrating a meeting of minds.

37. The learned Counsel for the Respondents further states that in view of the fact that the transfer of 100% shareholding was contrary to the Office Order dated 10.09.2020 issued by NOIDA which prohibited transfer of more than 49% of the shares, they have refunded the money because the Term Sheet had become completely unenforceable. He further states that the Lease



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Deed was indeed cancelled after the first sum of money i.e., Rs.1,00,00,000/- was refunded back by the Respondents to the Appellant.

38. Heard the learned Senior Counsels for the parties and perused the documents on record.

39. This Court in Perfect Diesel Sales and Service and Another v. Power HF India Private Limited, (2025) SCC OnLine Del 916, while dealing with the power of the Court under Section 37 (2)(b) placed reliance on the judgment of the Co-ordinate Bench of this Court in World Window Infrastructure Private Limited v. Central Warehousing Corporation, (2021) 3 HCC Del 731 and observed as under:-

“66. The scope of interference, in appeal, against orders passed by arbitrators on applications under Section 17 of the 1996 Act is limited. This Court has already opined in Dinesh Gupta v. Anand Gupta [Dinesh Gupta v. Anand Gupta, 2020 SCC OnLine Del 2099] , Augmont Gold (P) Ltd. v. One97 Communication Ltd. [Augmont Gold (P) Ltd. v. One97 Communication Ltd., (2021) 4 HCC (Del) 642] and Sanjay Arora v. Rajan Chadha [Sanjay Arora v. Rajan Chadha, (2021) 3 HCC (Del) 654] that the restraints which apply on the court while examining a challenge to a final award under Section 34 equally apply to a challenge to an interlocutory order under Section 37(ii)(b). In either case, the court has to be alive to the fact that, by its very nature, the 1996 Act frowns upon interference, by courts, with the arbitral process or decisions taken by the arbitrator. This restraint, if anything, operates more strictly at an interlocutory stage than at the final stage, as interference with interlocutory orders could interfere with the arbitral process while it is ongoing, which may frustrate, or impede, the arbitral proceedings.



67. Views expressed by arbitrators while deciding applications under Section 17 are interlocutory views. They are not final expressions of opinion on the merits of the case between the parties. They are always subject to modification or review at the stage of final award. They do not, therefore, in most cases, irreparably prejudice either party to the arbitration. Section 17 like Section 9 is intended to be a protective measure, to preserve the sanctity of the arbitral process. The pre-eminent consideration, which should weigh with the arbitrator while examining a Section 17 application, is the necessity to preserve the arbitral process and ensure that the parties before it are placed on an equitable scale. The interlocutory nature of the order passed under Section 17, therefore, must necessarily inform the court seized with an appeal against such a decision, under Section 37. Additionally, the considerations which apply to Section 34 would also apply to Section 37(ii)(b).”

40. Another Co-ordinate Bench in Lava International Limited v. Mintellelectuals LLP, (2024) SCC OnLine Del 6908 has laid the law with regards to scope of interference under Section 37(2)(b) and has observed as under:-

“(i) Scope of interference under Section 37(2)(b)

12. Before dealing with these contentions, it may be noticed that the scope of interference with orders passed under Section 17 of the Act is limited. This Court has had occasion to examine the width of the appellate jurisdiction under Section 37(2)(b) of the Act, and held that a discretionary interim order of an arbitral tribunal ought to be interdicted only if it is perverse or manifestly arbitrary². These conclusions rest both on the overarching principles of party autonomy and minimal curial intervention, which inform interpretation of the Act, and upon general principles governing the exercise of appellate power



against discretionary orders, as explained by the Supreme Court in *Wander Ltd. v. Antox India (P) Ltd.*

13. Reference may be made to the judgment of this Court in *Dinesh Gupta v. Anand Gupta*⁴, wherein this Court considered the matter with reference to Section 5 of the Act, and the generally limited nature of the Court's power in relation to arbitration proceedings, to conclude as follows:

“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, jurisprudential, 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.

14. In Sanjay Arora v. Rajan Chadha⁶, the Court went on to hold as follows:

“19. This Court has already opined, in Dinesh Gupta v. Anand Gupta (Supra) and Augmont Gold (P) Ltd. v. One97 Communication Ltd. (Supra), that the considerations guiding exercise of appellate jurisdiction under Section 37(2)(b) are, fundamentally, not really different from those which govern exercise of jurisdiction under Section 34 of the 1996 Act.

20. It is only, therefore, where the order suffers



from patent illegality or perversity that the court would interfere with the order of the learned Arbitral Tribunal, under Section 37(2)(b). This is because, unlike appeals under other statutes or under the CPC, appeals against orders of Arbitral Tribunal are subject to the overarching limitations contained in Section 5 of the 1996 Act, read with the Preamble thereto, which proscribes interference, by courts, with the arbitral process, or with orders passed by learned Arbitral Tribunal, save and except on the limited grounds envisaged in the 1996 Act itself.”

41. Further reliance can be placed on a judgment of the Co-ordinate Bench in R.K. Associates and Hoteliers Pvt. Ltd. v. Indian Railway Catering and Tourism Corporation Limited (IRCTC), (2026) SCC OnLine Del 212 which observed as under:-

“6. At the outset, this Court notes the settled position of law that in case the view taken by the Arbitral Tribunal is plausible and free from perversity, interference under Section 37(2)(b) of the Arbitration Act, is not warranted. The scheme of the Arbitration Act emphasizes minimal judicial intervention and Courts do not substitute their opinions for that of the Arbitral Tribunal, limiting the interference of the Court only in cases where the impugned order is perverse, patently illegal or suffers from jurisdictional infirmity. Thus, this Court in the case of Databit Technologies Pvt. Ltd. v. Red Fort Finance Company Pvt. Ltd., ARB. A. (COMM.) No. 1 of 2026, order dated 6-1-2026 (Del), held as follows:

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7. It is well settled that the scope of interference under Section 37 is limited. The appellate court does not act as a court of first instance and cannot re-appreciate evidence or substitute its own discretion over that of the arbitral tribunal.



Interference is warranted only where the impugned order is perverse, patently illegal, or suffers from a jurisdictional infirmity. Mere disagreement with the view taken by the tribunal or the possibility of an alternative view is not a ground for interference. The power exercised by the arbitral tribunal under Section 17 is discretionary and is guided by settled principles governing grant of interim measures, namely, the existence of a prima facie case, balance of convenience, and likelihood of irreparable prejudice.

8. **It is equally well settled that interlocutory orders are, by their very nature, discretionary and the scope of interference, in judicial review, with discretionary orders is limited.** Where the discretion exercised is towards direction for a deposit, the court has to be additionally circumspect, as the issue of whether a deposit ought, or ought not, to be directed, so as to secure the sanctity of the arbitral proceedings and ensure that they proceed to fruition, is essentially a matter to be assessed by the learned Arbitral Tribunal. Unless such assessment is perverse or suffers from manifest illegality, the approach of the court, ordinarily, should be one of restraint [refer: *Dinesh Gupta v. Bechu Singh*, (2021) 3 HCC (Del) 763 : 2021:DHC:4400].

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(Emphasis Supplied)

7. Likewise, holding that scope of interference in appeal against orders passed by Arbitrators on applications under Section 17 of the Arbitration Act, is limited and the restraints which apply on the Court while examining the challenge to a final award under Section 34 of the Arbitration Act, equally apply to a challenge under Section 37(2)(b) of the Arbitration



Act, this Court in the case of World Window Infrastructure Private Limited v. Central Warehousing Corporation, (2021) 3 HCC (Del) 731, held as follows:

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66. The scope of interference, in appeal, against orders passed by arbitrators on applications under Section 17 of the 1996 Act is limited. This Court has already opined in Dinesh Gupta v. Anand Gupta [Dinesh Gupta v. Anand Gupta, 2020 SCC OnLine Del 2099], Augmont Gold (P) Ltd. v. One97 Communication Ltd. [Augmont Gold (P) Ltd. v. One97 Communication Ltd., (2021) 4 HCC (Del) 642] and Sanjay Arora v. Rajan Chadha [Sanjay Arora v. Rajan Chadha, (2021) 3 HCC (Del) 654] that the restraints which apply on the court while examining a challenge to a final award under Section 34 equally apply to a challenge to an interlocutory order under Section 37(ii)(b). In either case, the court has to be alive to the fact that, by its very nature, the 1996 Act frowns upon interference, by courts, with the arbitral process or decisions taken by the arbitrator. This restraint, if anything, operates more strictly at an interlocutory stage than at the final stage, as interference with interlocutory orders could interfere with the arbitral process while it is ongoing, which may frustrate, or impede, the arbitral proceedings.

67. Views expressed by arbitrators while deciding applications under Section 17 are interlocutory views. They are not final expressions of opinion on the merits of the case between the parties. They are always subject to modification or review at the stage of final award. They do not, therefore, in most cases, irreparably prejudice either party to the arbitration. Section 17 like Section 9 is intended to be a protective measure,



to preserve the sanctity of the arbitral process. The preeminent consideration, which should weigh with the arbitrator while examining a Section 17 application, is the necessity to preserve the arbitral process and ensure that the parties before it are placed on an equitable scale. The interlocutory nature of the order passed under Section 17, therefore, must necessarily inform the court seized with an appeal against such a decision, under Section 37. Additionally, the considerations which apply to Section 34 would also apply to Section 37(ii)(b).

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82. That the province of Section 9 jurisdiction of the court, and of Section 17 jurisdiction of the arbitrator, are co-equal, stands settled by the recent decision of the Supreme Court in *Arcelor Mittal Nippon Steel India Ltd. v. Essar Bulk Terminal Ltd.* [*Arcelor Mittal Nippon Steel India Ltd. v. Essar Bulk Terminal Ltd.*, (2022) 1 SCC 712 : AIR 2021 SC 4350]

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(Emphasis Supplied)

8. Similar view has been taken by this Court in the cases of *GLS Foils Products Pvt. Ltd. v. FWS Turnit Logistic Park LLP*, 2023 SCC OnLine Del 3904 and *Dinesh Gupta v. Anand Gupta*, 2020 SCC OnLine Del 2099.

9. Thus, the position of law is clear that the Court is possessed with the power of only limited interference under Section 37(2)(b) of the Arbitration Act, only in cases where the impugned order passed by the Arbitral Tribunal suffers from patent illegality or perversity.”

42. Applying the law to the facts of this case, this Court does not find any infirmity with the order of the Tribunal on the basis of the material placed



before it has observed that the Term Sheet notes that its header states ‘***For Discussion Purposes Only***’. Further, even the title of the Term Sheet enumerates as follows:

“This Term Sheet capturing the broad terms of understanding between the Sellers (as defined below), the Purchaser (as defined below) and the Company (collectively referred to as the "Parties" and Individually as a "Party") in respect of the Transaction (as defined below) is executed at New Delhi on this 29th day of March, 2023 ”

43. A perusal of the Term Sheet clearly establishes that the purpose of drafting this document was to come to an understanding between the parties, execute the necessary documents as stipulated under the various clauses of the Term Sheet. A binding contract would have only come into existence after the successful execution of all the conditions as stipulated in the Term Sheet.

44. The Tribunal *vide* the Impugned Order has come to a prima facie conclusion only after taking into account the various clauses in the Term Sheet and the simultaneous discussions and negotiations held between the parties.

45. The Tribunal rightly held that the Term Sheet contained only broad terms of understanding, and facets, such as the definitive documents as stipulated under Clause 8 of the Term Sheet, were yet to be worked out. Therefore, the Tribunal refrained from making any observations with respect to the contingent nature of the Term Sheet, or as to whether the Respondents took advantage of their own wrong by not fulfilling the terms, or that the Term Sheet stood frustrated. These contentions are left open for trial. These observations, therefore, does not require interference at this stage.



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46. As far as the argument of the Appellant with regards to his bonafide intention for execution of the contract in lieu of the deposit of Rs. 2,00,00,000/- made to the Respondents is concerned, the said money has been refunded to the Appellant. No documentary evidence has been placed to show any protest/objections by the Appellant to the return of the said deposit. There was no written communication advanced from the Appellant to the Respondents after 28.06.2023 with regards to the Project.

47. The Appellant has approached this Court nearly after a year of the return of deposits and when the Project was finally revived under a new name by the Respondents. It is pertinent to note that the Respondents have already created third party rights in 375 units of the Project, and there are a total of 550 allottees.

48. The considerable delay on the part of the Appellant in seeking interim relief from this Court clearly demonstrates the absence of any genuine urgency in the matter. Furthermore, grant of an injunction at this stage would result in substantial prejudice to the allottees of the Project and would impede the timely completion of the Project within the revised deadline stipulated by NOIDA.

49. It is well settled that a party claiming interim relief has to pass the triple test of establishing a *prima facie* case that the balance of convenience lies in granting the relief and that irreparable loss would be caused to the party if the interim relief, as prayed for, is not granted. As observed earlier, there was complete silence on the part of the Appellant for about one year. The Appellant had taken the money and only when the project re-started, the Appellant started taking steps to prevent the Respondents from proceeding with the project. The Appellant has, therefore, failed to prove a *prima facie* case in his favour which is sufficient to deny the Appellant any interim stay.



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In any event, the Appellant has made an alternate claim of Rs.50 crores. In the facts of the present case, this Court is of the opinion that the balance of convenience is in the favour of the Respondents as they have already allotted 375 units of the project to the individual purchasers and any kind of interim relief at this juncture would affect the interest of those purchasers who have invested their hard-earned money in the project.

50. In view of the above, the Appellant has failed the triple test and therefore, is not entitled to the interim relief, as prayed for. This Court is, therefore, of the opinion that the Order of the Tribunal does not warrant any interference from this Court.

51. Accordingly, the Appeal is dismissed, along with pending application(s), if any.

SUBRAMONIUM PRASAD, J

FEBRUARY 24, 2026

Prateek/MT