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

% *Date of Decision: 24.04.2025*

+ **FAO (COMM) 98/2025 & CM APPL. 24141-42/2025**

GROVY INDIA PVT LTD.Appellant

Through: Mr Aditya Wadhwa, Advocate.

versus

KULDEEP GUPTARespondent

Through: Mr Siddharth Chaudhary, Advocate.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

HON'BLE MR. JUSTICE TEJAS KARIA

VIBHU BAKHRU, J. (ORAL)

1. Issue notice. The learned counsel for the respondent, who has joined the proceedings through video conferencing, accepts notice.
2. The appellant has filed the present appeal under Section 37(1)(b) of the Arbitration and Conciliation Act, 1996 [**A&C Act**], *inter alia*, impugning the order dated 17.04.2025 [**impugned order**] passed by the learned Commercial Court in OMP (I) (COMM) No.64/2025 captioned *Kuldeep Gupta v. M/s Grovy India Pvt Limited*.
3. The said petition [OMP (I) (COMM) No.64/2025] was filed by the respondent under Section 9 of the A&C Act, seeking interim measures of protection.
4. In terms of the impugned order, the learned Commercial Court had interdicted the appellant from removing or taking out the scrap material in



the form of iron, steel reinforcement scrap, a poclain breaker, three oxygen cylinders, LPG cylinders, motor, and tools lying at the site (at No.C-8, Anand Niketan, New Delhi) and from carrying out any demolition work.

5. The respondent was engaged by the appellant for demolishing the built-up property bearing No.C-8, Anand Niketan, New Delhi-110021 [**subject property**].

6. The appellant is a limited company registered under the Companies Act, 1956 and is engaged in carrying on the business of construction and development of real estate.

7. The appellant had entered into a collaboration agreement for development of the subject property. The appellant claimed that it had purchased 55 per cent undivided share in the subject property and the balance 45 per cent is owned by investors. Since the appellant was required to demolish the existing structure for further redevelopment/reconstruction, the appellant entered into the contract dated 18.10.2024 [**the Contract**] with the respondent.

8. In terms of the Contract, the respondent had agreed to demolish the existing structure, remove the steel and scrap, and debris, for a total consideration of ₹19,00,000/- (Rupees Nineteen Lacs). The said work was required to be completed within a period of 45 days. In terms of the Contract, the steel scrap and other material from the existing building would belong to the respondent.

9. Apparently, disputes have arisen between the parties in relation to the



Contract. The respondent alleges that the appellant had engaged another person for demolishing the subject property and thus, breached the Contract.

10. It is also the respondent's case that he had estimated about 60 metric tons of scrap steel would be available on the demolition of the subject property. The respondent claims that, out of said amount, about 25 (twenty-five) metric tons was removed but 35 (thirty-five) metric tons still remain at the site. In addition, the appellant claimed that certain equipment [poclain breaker, three oxygen cylinders, LPG cylinders, motor, and tools] are lying at the site.

11. We are, *prima facie*, of the view that no irreparable loss or damage would have been caused to the respondent if the interim order, as sought, had not been granted. It is well settled that Section 9 of the A&C Act is couched in wide terms and enables the Court to direct interim measures of protection in aid of the disputes and to preserve the subject matter of the dispute.

12. In the present case, it is apparent that the subject matter of the dispute, would, apart from recovery of the equipment and tools lying at the site, would be confined to a monetary claim. The respondent has also issued a legal notice claiming an amount of ₹15,78,000/- on account of alleged breach of the contract and called upon the appellant to settle the said amount on receipt of the legal notice.

13. In the aforesaid circumstances, the order interdicting the appellant from carrying out the development project for reconstruction of the subject property – which would also entail completion of the demolition work – is



unsustainable.

14. It is essential to evaluate the necessity to pass such an order on the triple test of strong *prima facie* case, irreparable loss and balance of convenience. However, we find that the impugned order does not satisfy the test of irreparable loss and balance of convenience, which are essential for issuing any such order for interim measures of protection.

15. At this stage, the learned counsel for the respondent submits that the present appeal may be disposed of by setting aside the impugned order, while granting liberty to the respondent to assert all rights and contentions before the Arbitral Tribunal.

16. In view of the above, the impugned order is set aside.

17. However, we direct that the appellant shall not prevent the respondent from removing the equipment [poclain breaker, three oxygen cylinders, LPG cylinders, motor, and tools] from the site.

18. The appeal stands allowed in the aforesaid terms. It is clarified that all the rights and contentions of the parties are reserved. The pending applications are also disposed of.

VIBHU BAKHRU, J

TEJAS KARIA, J

APRIL 24, 2025

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Click here to check corrigendum, if any