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

% ***Date of Decision: 20th March, 2025***

+ CM(M) 521/2025& CM APPL. 16300-16301/2025

SUNEHRI BAGH BUILDERS PVT LTDPetitioner

Through: Mr. Dinkar Singh with Mr. Rohit
Singh, Advocates.

versus

DELHI TOURISM AND TRANSPORTATION DEVELOPMENT
CORPORATION LTDRespondent

Through: Mr. Vipul Garg and Mr. Gupreet
Singh, Advocates.

CORAM:

HON'BLE MR. JUSTICE MANOJ JAIN

J U D G M E N T (oral)

1. The claim of petitioner is pending adjudication before learned Sole Arbitrator.
2. The case is, already, at the stage of final arguments.
3. Petitioner is aggrieved by order dated 15.02.2025 passed by learned Sole Arbitrator whereby his application seeking production of certain documents has been dismissed.
4. This Court has gone through the abovesaid order dated 15.02.2025 which was passed by learned Sole Arbitrator, when it was already in the middle of hearing final arguments.
5. Learned Sole Arbitrator observed that similar opportunity had been granted to the claimant earlier on 07.09.2024 and the claimant did not avail the abovesaid opportunity and did not even inspect the record and, therefore, it did not accede to the abovesaid request.
6. This Court has also gone through earlier order dated 07.09.2024.
7. At that relevant time, the parties had been directed to file their



affidavits for admission/denial of documents and it was at that relevant stage that the claimant had sought for inspection of respondent's file and was even permitted to do so. The matter was thereafter taken up by learned Sole Arbitrator on 17.09.2024 when learned Arbitrator noticed that despite the opportunity being given in this regard, the claimant had not chosen to avail the abovesaid opportunity.

8. As already noted above, the case is at the stage of final arguments and, therefore, this Court does not find any requirement of interfering with the abovesaid order, particularly, when the scope of interference in such type of arbitral proceedings is very limited.

9. This Court in *Kelvin Air Conditioning & Ventilation System (P) Ltd. v. Triumph Reality (P) Ltd.*, 2024 SCC OnLine Del 7137 was considering the case of a petitioner who was defending a claim, and was aggrieved by the order of learned Arbitrator whereby the delay in filing the statement of defense was not condoned. The following observations were made with respect to the scope of interference under Article 227 of Constitution of India:-

"9. This Court is conscious of the fact that the petitioner has invoked jurisdiction of this Court by filing a petition under Article 227 of Constitution of India. Judicial inference in such type of matters has to be minimal and recourse to Article 227 of the Constitution of India has to be under exceptional circumstances when it is shown that such order is absolutely perverse.

10. Reference be made to IDFC First Bank Limited Vs. Hitachi MGRM Net Limited: 2023 SCC OnLine Del 4052 whereby Co-ordinate Bench of this Court has enumerated certain circumstances wherein such type of petition can be entertained. Though, in that case, the challenge was in context of dismissal of application filed under Section 16 of Arbitration and Conciliation Act but the observations are equally important in the present context. Relevant portion of aforesaid judgment reads as under: -



"24. While there is no doubt that a remedy under Articles 226 and 227 are available against the orders passed by the Arbitral Tribunal, such challenges are not to be entertained in each and every case and the court has to be "extremely circumspect".

25. Recently, in *Surender Kumar Singhal v. Arun Kumar Bhalotia* [*Surender Kumar Singhal v. Arun Kumar Bhalotia*, 2021 SCC OnLine Del 3708], this Court, after considering all the decisions, of the Supreme Court [*Deep Industries Ltd. v. ONGC Ltd.*, (2020) 15 SCC 706; *Bhaven Construction v. Sardar Sarovar Narmada Nigam Ltd.*, (2022) 1 SCC 75 : (2022) 1 SCC (Civ) 374; *Punjab State Power Corpn. Ltd. v. EMTA Coal Ltd.*, (2020) 17 SCC 93 : (2021) 4 SCC (Civ) 341; *Virtual Perception OPC (P) Ltd. v. Panasonic India (P) Ltd.*, 2022 SCC OnLine Del 566 and *Ambience Projects & Infrastructure (P) Ltd. v. Neeraj Bindal*, 2021 SCC OnLine Del 4023] has laid down circumstances in which such petitions ought to be entertained. The relevant portion of the said judgment reads as under:

"24. A perusal of the abovementioned decisions, shows that the following principles are well settled, in respect of the scope of interference under Articles 226/227 in challenges to orders by an Arbitral Tribunal including orders passed under Section 16 of the Act:

- (i) An Arbitral Tribunal is a tribunal against which a petition under Articles 226/227 would be maintainable.
- (ii) The non obstante clause in Section 5 of the Act does not apply in respect of exercise of powers under Article 227 which is a constitutional provision.
- (iii) For interference under Articles 226/227, there have to be exceptional circumstances.
- (iv) Though interference is permissible, unless and until the order is so perverse that it is patently lacking in inherent jurisdiction, the writ court would not interfere.
- (v) Interference is permissible only if the order is completely perverse i.e. that the perversity must stare in the face.
- (vi) High Courts ought to discourage litigation which necessarily interfere with the arbitral process.
- (vii) Excessive judicial interference in the arbitral process is not encouraged.
- (viii) It is prudent not to exercise jurisdiction under Articles 226/227.
- (ix) The power should be exercised in „exceptional rarity“ or if there is „bad faith“ which is shown.



(x) Efficiency of the arbitral process ought not to be allowed to diminish and hence interdicting the arbitral process should be completely avoided."

26. A perusal of the above would show that it is only under exceptional circumstances or when there is bad faith or perversity that writ petitions ought to be entertained."

10. In view of the above, this Court does not find any reason to invoke its supervisory power in the present matter.

11. As an upshot of above, present petition is, hereby, dismissed.

(MANOJ JAIN)
JUDGE

MARCH 20, 2025/st/pb