



2026:DHC:850



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

Reserved on: 21st January, 2026

Date of Decision: 03rd February, 2026

+ **CM(M) 156/2026, CM APPL. 3890/2026 & CM APPL. 3891/2026**

M/S AGARWAL ASSOCIATES (PROMOTERS) LTD.....Petitioner

Through: Mr. Shashank Garg, Senior Advocate
with Mr. Divyakant Lahoti, Mr. Kartik
Lahoti, Mrs. Vindhya Mehra, Ms.
Praveena Bisth, Mr. Adith Menon,
Ms. Akanksha Soni and Ms.
Shubheksha Dwivedi, Advs.

versus

M/S SHARDA DEVELOPERSRespondent

Through: Mr. Roshan Santhalia, Ms. Kavya
Arora and Mr. Shivansh Sinha, Advs.

CORAM:

HON'BLE MR. JUSTICE RAJNEESH KUMAR GUPTA
JUDGMENT

1. The present petition has been filed by the petitioner under Article 227 of the Constitution of India read with Section 151 of the Code of Civil Procedure, 1908 ("CPC"), assailing the order dated 24th December 2025 passed by the learned Sole Arbitrator in *Case Ref. No. DIAC/6028/03-23*, whereby the 1d. Sole Arbitrator allowed the application filed by the respondent/claimant to bring on record only one document - *Annexure A i.e., Letter dated 08th August, 2012*.

2. Ld. Senior Counsel appearing for the petitioner, has argued that the documents sought to be introduced were admittedly within the knowledge and possession of the respondent since the inception of the Arbitral



Proceedings. It was contented that permitting such documents at the stage of final arguments amounts to reopening concluded stages of arbitration and defeats the statutory objective of expeditious resolution under Section 29 of the Arbitration and Conciliation Act, 1996 ("the Act"). It was further submitted that the impugned order stands outside the four corners of the agreement, which alone defines the jurisdiction and powers of the ld. Arbitrator. The respondent had several opportunities throughout the Arbitral Proceedings to disclose and produce the alleged document. Prior to the present application, the respondent had already filed two applications seeking to place additional documents on record and the impugned order has been passed without recording any exceptional circumstances for placing the alleged documents on record. The impugned order has caused grave prejudice to the petitioner and is tainted by bad faith, lack of inherent jurisdiction and procedural perversity. Accordingly, it was prayed that the impugned order be set aside.

Reliance was placed upon the following judgments, ***Surender Kumar Singhal V. Arun Kumar Bhalotia*** 2021 SCC OnLine Del 3708, ***ONGC Petro Additions Ltd. V. Technimont S.P.A.*** 2019 SCC OnLine Del 897620, ***Fortuna Skill Management (P) Ltd. V. Jaina Marketing & Associates*** 2024 SCC OnLine Del 4685 and ***John Peter Fernandes V. Saraswati Ramchandra Ghante since deceased and others*** 2023 SCC OnLine Bom 676.

3. *Per contra*, ld. Counsel for the respondent, has argued that, in view of the settled principles of law governing the limited scope of judicial intervention in interlocutory orders passed by the Arbitral Tribunal, the present petition is not maintainable, as no exceptional circumstances have been made out to invoke the jurisdiction under Article 227 of this Court. It has



also been argued that the impugned order has been passed in exercise of procedural discretion vested in the Arbitral Tribunal and is a reasoned order. It was, therefore, prayed that the petition be dismissed as being devoid of any merits.

Reliance was placed upon the following judgments, **S.B.P and Co. V. Patel Engineering Ltd. and Ors.** (2005) 8 SCC 618, **Bhaven Construction V Sardar Sarovar Narmada Nigam Ltd.** (2022) 1 SCC 75, **Fortuna Coupons Private Limited V. Amazon.com Nv Investment Holdings LCC** 2022 SCC OnLine Del 3890 and **Pink City Expressways Private Limited V. Aaron Security and Services Pvt. Ltd.** 2023 SCC OnLine Del 380.

4. I have heard ld. Counsel for the parties and perused the record.
5. The impugned order is interlocutory in nature as it does not bring, to an end, the arbitral proceedings, which are still continuing.
6. The scope of Article 227 of the Constitution of India, in dealing with the interlocutory orders of the Arbitral Tribunal has been settled by the Hon'ble Supreme Court in **S.B.P and Co. V. Patel Engineering Ltd. and Ors.** (*supra*), wherein it was held as under: -

“45. It is seen that some High Courts have proceeded on the basis that any order passed by an Arbitral Tribunal during arbitration, would be capable of being challenged under Article 226 or 227 of the Constitution. We see no warrant for such an approach. Section 37 makes certain orders of the Arbitral Tribunal appealable. Under Section 34, the aggrieved party has an avenue for ventilating its grievances against the award including any in-between orders that might have been passed by the Arbitral Tribunal acting under Section 16 of the Act. The party aggrieved by any order of the Arbitral Tribunal, unless has a right of appeal under Section 37 of the Act, has to wait until the award is passed by the Tribunal. This



appears to be the scheme of the Act. The Arbitral Tribunal is, after all, a creature of a contract between the parties, the arbitration agreement, even though, if the occasion arises, the Chief Justice may constitute it based on the contract between the parties. But that would not alter the status of the Arbitral Tribunal. It will still be a forum chosen by the parties by agreement. We, therefore, disapprove of the stand adopted by some of the High Courts that any order passed by the Arbitral Tribunal is capable of being corrected by the High Court under Article 226 or 227 of the Constitution. Such an intervention by the High Courts is not permissible.

46. *The object of minimising judicial intervention while the matter is in the process of being arbitrated upon, will certainly be defeated if the High Court could be approached under Article 227 or under Article 226 of the Constitution against every order made by the Arbitral Tribunal. Therefore, it is necessary to indicate that once the arbitration has commenced in the Arbitral Tribunal, parties have to wait until the award is pronounced unless, of course, a right of appeal is available to them under Section 37 of the Act even at an earlier stage.”*

6.1. This Court in ***Hindustan Alloys Pvt. Ltd. V Maa Sheetla Ventures Limited***, MANU/DEOR/108126/2024, has also dealt with the scope of interference by the High Court while dealing with interlocutory orders passed by an Arbitral Tribunal and observed as follows: -

“7. Thus, Bhaven Construction (supra), clearly indicates that while exercising writ jurisdiction, the Court must consider the nature of challenge and also of the nature of the impugned order. Moreover, in the opinion of this Court, this already circumspect scope of interference under Article 226 becomes even narrower when it is an order of the Arbitral Tribunal in relation to the conduct of arbitration proceedings that is called into question. In



keeping with the aforesigned observations of this Court in Easy Trip Planners Ltd. (supra), the Court is of the opinion that a writ petition, cannot be entertained against every interlocutory order dealing with case management. Such orders are within the domain and discretion of the Arbitral Tribunal, and would include orders considering the request of parties to summon witnesses, production on documents, etc. Remedy against such orders would lie against the interim award or the final award that the Arbitral Tribunal would choose to pass. Needless to say, it is always open to aggrieved litigants to raise a challenge under Section 34 of the Arbitration Act, however, till then, the aggrieved party will have to await the said decision.”

7. The operative portion of the impugned order dated 24th December 2025 reads as under: -

“vi. In view of the delay caused by the application at the eve of final arguments, the application is allowed only qua Annexure A i.e. alleged letter dated 08.08.2012 and the Claimant may place on the arbitral record the original of purported letter dated 08.08.2012 within two weeks of this order, subject to payment of costs of Rs. 25000/- within the same time (two weeks) by the Claimant to the Respondent and proof of payment of costs to also be placed on the arbitral record;

vii. To ensure that the Respondent is not prejudiced by taking on record of the alleged letter and that the Respondent has an equal and full opportunity to present its case, the Tribunal directs as under:

a. While the Respondent has already denied the afore-mentioned Annexure A in its reply to the application, it shall file a brief affidavit of admission/ denial qua the alleged letter dated 08.08.2012 (Annexure A to the application), within one week from the expiry of the time granted to the Claimant in sub-paragraph (vi) above;



- b. *The original of the alleged letter dated 08.08.2012 may be inspected by the Respondent upon the Claimant's filing the same, if it so wishes, by giving a day's notice to the Tribunal;*
- c. *Further, the Respondent will be at liberty to lead evidence limited to rebuttal of the alleged letter dated 08.08.2012 permitted to be placed on record vide this order. The Respondent shall convey whether it will be leading such rebuttal on the next date of hearing.*

15. *Accordingly, the application of the Claimant is disposed of in the above terms. The next date of hearing in these matters shall be 16.01.2026 at 5:30 PM, to be held virtually.”*

8. A perusal of the impugned order shows that it is a well-reasoned order. Moreover, to ensure that no prejudice is caused to the petitioner, adequate directions have been provided therein, in *Paragraph vii (a), (b) and (c)*. Accordingly, no case of bad faith on the part of the 1d. Sole Arbitrator has been made out while passing the impugned order.

9. The challenge to the impugned order can also be made as one of the grounds while challenging the final award, which may come to be passed by the 1d. Sole Arbitrator. Thus, an effective remedy remains available to the petitioner. In such challenge, the petitioner shall be at liberty to urge all contentions, against the interlocutory order as well.

10. In view of the foregoing discussions, this Court finds no basis to entertain the present petition. The petition is, accordingly, disposed of as not maintainable. Pending applications, if any, also stand disposed of.

RAJNEESH KUMAR GUPTA, J

FEBRUARY 03, 2026/nd/ABK