



2026:AHC:200937

Reserved on 22.09.2026

Delivered on 24.09.2026

HIGH COURT OF JUDICATURE AT ALLAHABAD

ARBITRATION AND CONCILI. APPL.U/S11(4) No. - 89 of 2026

Jan Aushadhi Medical Store and 6 others

.....Applicant(s)

Versus

State of U.P. and 3 others

.....Opposite Party(s)

Counsel for Applicant(s)	: Arvind Kumar Shukla, Indra Jit Singh, Rituvendra Singh Nagvanshi
Counsel for Opposite Party(s)	: Alok Kumar Singh, C.S.C., Chandan Agarwal, Shiv Kumar Pal

Court No. - 7

HON'BLE PIYUSH AGRAWAL, J.

1. Heard Mr. R.C. Singh, learned Senior Counsel assisted by Mr. Indra Jit Singh, for the applicant, Mr. Shiv Kumar Pal, learned counsel for respondent no. 5, Mr. Rishabh Agrawal, learned counsel for State of UP and Mr. Raghav Arora holding brief of Mr. Chandan Agarwal, learned counsel for respondent nos. 2, 3 and 4.
2. The instant application under Section 11(6) of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as the "Act") has been filed seeking appointment of a sole Arbitrator.
3. Vide order dated 15.9.2026, the Court has passed the following order:-

"Heard Mr. Indra Jit Singh for the applicant(s), Mr. Chandan Agrawal, learned counsel for respondent nos. 2, 3 & 4, Mr. Rishabh Agrawal,

learned counsel for the respondent nos. 1 and 6 to 41 and Shri Shiv Kumar Pal, learned counsel for the Union of India - respondent no. 5.

Mr. Rishabh Agrawal raises a preliminary objection with regard to maintainability of the applicant on the ground that :-

(a) the arbitration clause contemplates the seat at Lucknow;

(b) there is a tripartite agreement annexed at page 79 of the paper book; wherein, three parties are mentioned and refers that the third party is Medico Devices, which is an individual dealer of city-wise and therefore, a composite application cannot be filed and separate application has to be filed; and

(c) no notice as required under section 21 of the Act has been given to the parties to the contract and the notice has been sent to some stranger; Therefore, the present application is not maintainable.

Confronted with the said fact, learned counsel for the applicant seeks accommodation for today.

As prayed, list again on 16.09.2026 for further hearing.”

4. On the next date i.e. on 22.9.2026, the matter was heard only on the ground of maintainability of the present arbitration application before this Court as the counsel for the respondents have raised preliminary objection regarding the maintainability of the present application before this Court. His submission is that, Clauses 34(ii) of the agreement entered into between the parties, provides that the place of arbitration shall be ‘Lucknow’.

5. Learned Senior Counsel for the applicant submits that stipulation contained therein, conferring exclusive jurisdiction upon the Courts at Lucknow, is void and cannot oust the jurisdiction otherwise vested in a competent Court. It is further submitted that the said clause is the result of unequal bargaining power between the parties and, therefore, cannot be permitted to operate against the applicant. He submits that the agreement entered into between the parties was executed in New Delhi. He further submits that purchase work order was issued at the address of the applicant, therefore, a part of the cause of action arose within the

territorial jurisdiction of this Court and this Court possess the jurisdiction to entertain the present application under Section 11 (6) of Arbitration and Conciliation Act.

6. In support of his submission, learned Senior Counsel for the applicant has relied upon the following judgements:

(I) **Jagdeep Chaowgule Vs. Sheetla Chowgule and others** AIR 2026 SC (Civil) 644

(II) **Mankastu Impex Pvt. Ltd. Vs. Airvisual Limited**, AIR 2020 Supreme Court, 1297;

(III) **Indus Mobile Distribution Pvt. Ltd. Vs. Datawind Innovation Pvt. Ltd.** AIR 2017 Supreme Court 2105.

(IV) **Faith Constructions Vs. N.W.G.E.L. Church**, 2025 SCC Online Del 1746 (Delhi High Court).

7. In alternative, learned Senior Counsel further submits that in the event, the Court is of the view that the present application is not maintainable before this Bench of High Court, hence the present application may be remitted before the Lucknow Bench of this Court in view of the Full Bench judgment of this Court in **Bhuwal Vs. Deputy Director of Consolidation, Pratapgarh and another** 1977 AIR Allahabad 488 as well as judgment of this Court in the case of **Bhookan Saran Vs. Hindustan Petroleum Corporation Ltd. And another** (Arbitration and Conciliation Application U/S 11 (4) No. 73 of 2021) decided on 16.9.2021.

8. *Per contra*, learned counsel for the opposite party has opposed the said submission and placed reliance upon the judgment of this Court in ***Torrent Power Limited Vs. Dakshinanchal Vidyut Vitran Nigam Limited***, ARCO No. 65 of 2021, decided on 22.12.2022 as well as **Gammon India Ltd. And another Vs. National Highways Authority of India**, 2020 SCC Online Del 659 (High Court of Delhi). He further placed reliance upon the Division Bench judgement of this Court in the case of **Heera Lal Yadav and State of UP and others** (Criminal Misc. Writ Petition No. 12605 of 2020) Neutral Citation No. 2021:AHC: 49855-DB and **Sri Nasiruddin Vs. State Transport Appellate Tribunal** (1975) 2 SCC 671

and submits that no matter shall be remitted from Allahabad Bench to Lucknow Bench of this Court.

9. The rival submissions advanced by learned counsel for the parties have been considered and the material available on record has been carefully perused.

10. The controversy, in essence, is confined to the question as to whether, in view of the express stipulation contained in the arbitration agreement, this Court can exercise jurisdiction under Section 11(6) of the Act.

11. For a proper appreciation of the controversy, relevant part of Clause 34 of the agreement, which contains the arbitration clause, is reproduced herein below:

“34 Arbitration

(I) Any dispute which is not resolved amicably by conciliation as provided in Clause 6.24 shall be finally decided by reference to arbitration by an arbitral tribunal constituted in accordance with clause 6.25.

*(II) Such arbitration shall be held in accordance with the Rules of Arbitration of International Centre for Alternative Dispute Resolution, New Delhi (The Rules) or such other rules as may be mutually agreed by the parties and shall be subject to the provisions of the Arbitration Act. **The place of such arbitration shall be Lucknow and the language of arbitration proceedings shall be English.***

(emphasis supplied by this Court)

12. A plain and meaningful reading of Clause 34 (II) makes the intention of the parties abundantly clear. The parties, while entering into the agreement, consciously stipulated that the arbitration proceedings shall be held at Lucknow. Such a stipulation cannot be treated as an inconsequential or incidental term of the agreement. The place agreed upon by the parties for conduct of the arbitral proceedings assumes

significance in determining the jurisdiction of the Court competent to exercise supervisory jurisdiction over such proceedings.

13. It is true that ordinarily the existence of a part of the cause of action within the territorial jurisdiction of a Court may confer jurisdiction upon such Court in appropriate proceedings. However, an application under Section 11 of the Act cannot be examined in isolation from the arbitration agreement executed between the parties. Once the parties have expressly agreed upon the place of arbitration, the Court is required to give due effect to such contractual stipulation, subject, of course, to the agreement being otherwise legally enforceable.

14. The reliance placed by learned counsel for the respondent upon the judgment of this Court in *Torrent Power Limited Vs. Dakshinanchal Vidyut Vitran Nigam Limited* (supra) also lends support to the aforesaid conclusion.

15. In the present case, the contractual language is clear, unambiguous and incapable of admitting any other reasonable interpretation. Clause 34 (II) specifically provides that “*The place of such arbitration shall be Lucknow and the language of arbitration proceedings shall be English.*” There is no material before this Court on the basis whereof the said stipulation can be ignored or rendered has placed.

16. For the reasons as aforesaid, this Court is of the considered opinion that the present application is not maintainable before this Court for want of territorial jurisdiction. The preliminary objection raised by the respondent, therefore, deserves to be and is hereby upheld.

17. So far as the alternative prayer made by the learned Senior Counsel for the application with regard to remittance of the matter before the Lucknow Bench of this Court is concerned, Hon’ble the Apex Court in the case of *Sri Nasiruddin* (supra) has held as under:-

"12. It is in this context that the following five questions were referred for decision to the Full Bench :

(1) Can a case falling within the jurisdiction of the Lucknow Bench of this Court be presented at Allahabad ?

(2) Can the Judges sitting at Allahabad summarily dismiss a case presented at Allahabad pertaining to the jurisdiction of the Lucknow Bench ?

(3) Can a case pertaining to the jurisdiction of Lucknow Bench, presented and entertained at Allahabad, be decided finally by the Judges sitting at Allahabad, without there being an order as contemplated by the second proviso to Article 14 of the U.P. High Court (Amalgamation) Order, 1948 ?

(4) What is the meaning of the expression "in respect of cases arising in such areas in Oudh" used in first proviso to Article 14 of the High Court (Amalgamation) order, 1948 ? Has this expression reference to the place where the case originated or to the place of the sitting of the last Court of authority whose decree or order is being challenged in the proceedings before the High Court ?

(5) Whether this writ petition can be entertained, heard and decided by the Judges sitting at Lucknow?

13. The majority view of the Full Bench gave the following answers:-

(1) A case falling within the jurisdiction of Judges at Lucknow should be presented at Lucknow and not at Allahabad.

(2) However, if such a case is presented at Allahabad, the Judges at Allahabad cannot summarily dismiss it only for that reason. The case should be returned for filing before the Judges at Lucknow and where the case has been mistakenly or inadvertently entertained at Allahabad, a direction should be made to the High Court office to transmit the papers of the case to Lucknow.

(3) A case pertaining to the jurisdiction of the Judges at Lucknow and presented before the Judges at Allahabad cannot be decided by the Judges at Allahabad in the absence of an order contemplated by the second proviso to Article 14 of the Amalgamation Order, 1948.

(4) The expression "in respect of cases arising in such areas in Oudh" used in the first proviso to Article 14 of the High Court (Amalgamation) Order, 1948, refers to legal proceedings, including civil cases, criminal cases, petitions under Articles 226, 227 and 228 of the Constitution and petitions under Articles 132, 133 and 134 of the Constitution instituted before the Judges sitting at Lucknow and having their origin, in the sense explained in the majority judgment in such areas in Oudh as the Chief Justice may direct. The expression "arising in such areas in Oudh" refers to the place where the case originated in the sense explained in the majority judgment and not to the place sitting of the last court or authority whose decree or order is being challenged in the proceeding before the High Court.

(5) The Lucknow Bench have no jurisdiction to hear writ petition No. 750 of 1964 which gave rise to writ petition No. 3294 of 1970."

18. While, dealing with the said questions and the answers as given therein, the conclusions as drawn by the Apex Court are in paragraph 38 of the said judgement which are as follows:-

"38. To sum up. Our conclusions are as follows. First, there is no permanent seat of the High Court at Allahabad. The seats at Allahabad and at Lucknow may be changed in accordance with the provisions of the order. Second, the Chief Justice of the High Court has no power to increase or decrease the areas in Oudh from time to time. The areas in Oudh have been determined once by the Chief Justice and, therefore, there is no scope for changing the areas. Third, the Chief Justice has power under the second proviso to paragraph 14 of the order to direct in his discretion that any case or class of cases arising in Oudh areas shall be heard at Allahabad. Any case or class of cases are those which are instituted at Lucknow. The interpretation given by the High Court that the word "heard" confers powers on the Chief Justice to order that any case or class of cases arising in Oudh areas shall be instituted or filed at Allahabad, instead of Lucknow is wrong. The word "heard" means that cases which have already been instituted or filed at Lucknow may in the discretion of the Chief Justice under the second proviso to paragraph 14 of the order be directed to be heard at Allahabad. Fourth, the expression "cause of action" with regard to a civil matter means that it should be left to the litigant to institute cases at Lucknow Bench or at Allahabad Bench according to the cause of action arising wholly or in part within either of the areas. If the cause of action arises wholly within Oudh areas then the Lucknow Bench will have jurisdiction. Similarly, if the cause of action arises wholly outside the specified areas in Oudh then Allahabad will have jurisdiction. If the cause of action in part arises in the specified Oudh areas and part of the cause of action arises outside the specified areas, it will be open to the litigant to frame the case appropriately to attract the jurisdiction either at Lucknow or at Allahabad. Fifth, a criminal case arises where the offence has been committed or otherwise as provided in the Criminal Procedure Code. That will attract the jurisdiction of the Court at Allahabad or Lucknow. In some cases depending on the facts and the provision regarding jurisdiction, it may arise in either place."

19. The controversy as has been raised in the present case has been answered by the Apex Court in its conclusion which has been dealt with as the third conclusion therein. The same is at the cost of repetition being again extracted herein below:-

"38. Third, the Chief Justice has power under the second proviso to paragraph 14 of the order to direct in his discretion that any case or class of cases arising in Oudh areas shall be heard at Allahabad. Any case or class of cases are those which are instituted at Lucknow. The interpretation given by the High Court that the word "heard" confers powers on the Chief Justice to order that any case or class of cases arising in Oudh areas shall be instituted or filed at Allahabad, instead of Lucknow is wrong. The word "heard" means that cases which have already been instituted or filed at Lucknow may in the discretion of the Chief Justice under the second proviso to paragraph 14 of the Order be directed to be heard at Allahabad."

20. On the basis of the said judgment, the Division Bench of this Court in the case of **Heera Lal Yadav (supra)** has held as under

*A perusal of the third conclusion of the Apex Court in the case of **Sri Nasiruddin (supra)** leaves no doubt that a case which has already been instituted or filed at Lucknow may in the discretion of the Chief Justice under the second proviso to paragraph 14 of the Amalgamation Order be directed to be heard at Allahabad but not vice-versa. This leaves with no doubt that a case filed or instituted at Lucknow can be directed to be heard at Allahabad but a case filed or instituted at Allahabad cannot be directed to be heard at Lucknow. The legal proposition is quite clear and specific.*

*Looking to the position of law as stated above and the facts of the present case, this Court comes to a conclusion that the preliminary objection regarding maintainability of the present writ petition at Allahabad as raised by the learned counsel for the State, has substance. The argument of learned Senior Advocate that the present case be transferred to Lucknow as per the dictum laid down in the case of **Sri Nasiruddin (supra)** is fallacious.*

21. In view of above, the matter cannot be remitted before the Lucknow Bench of this Court as prayed by learned Senior Counsel for the applicant.

22. Accordingly, the instant application is **disposed of** on the ground of lack of jurisdiction.

23. It is, however, made clear that this Court has not examined the merits of the applicant's claim or the existence of any arbitrable dispute between the parties. The disposal of the present application shall, therefore, not preclude the applicant from availing such remedy as may be available to it in accordance with law before the competent Court

having jurisdiction in terms of the arbitration agreement. The applicant shall be at liberty to approach the appropriate Court/forum in accordance with law.

(Piyush Agrawal,J.)

September 24, 2026

Rahul Dwivedi/-