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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **FAO(OS) (COMM) 100/2025 & CM APPL. 35853/2025, CM APPL. 35854/2025**

CLIX CAPITAL SERVICES PVT LTD

.....Appellant

Through: Mr. Ravi Shankar Garg, Mr. Puneet Raj, Mr. Sarthak Gupta, Advs.

versus

M/S ATRIUM NEWGEN DIAGNOSTICS & ORS.

.....Respondents

Through: Mr. Sourabh Saini & Ms. Niharika Rai, Advs. for R-1.

Ms Sumitra Choudhary, Mr. MK Raghav Raman, Ms. Nitya Sharma, Ms. Jasmine Sheikh and Ms. Muskan Rathee, Advs. for R-5.

CORAM:

JUSTICE PRATHIBA M. SINGH

JUSTICE RAJNEESH KUMAR GUPTA

ORDER

% **30.05.2025**

1. This hearing has been done through hybrid mode.

CM APPL. 35853/2025, CM APPL. 35854/2025 (for exemptions)

2. Allowed, subject to all just exceptions. Applications are disposed of.

FAO(OS) (COMM) 100/2025

3. The present appeal has been filed by the Appellant under Section 37(1)(b) of the Arbitration and Conciliation Act, 1996 (hereinafter “the 1996 Act”) read with Section 13 of the Commercial Courts Act, 2015 (hereinafter “the 2015 Act”) challenging the impugned order dated 20th May, 2025 (hereinafter “the impugned order”), which reads as under:

“1. This is a petition filed under section 9 of Arbitration and Conciliation Act, 1996 seeking the following reliefs:-



*“i. Direct the Respondents herein to surrender the Hypothecated Financed Medical Equipment /Machines to the “Claimant Company immediately; And / Or
ii. Appoint Sh. NEERAJ DAHIYA (Mob: 7011095037, Email: Neeraj.Dahiya@clix.capital), Officer / Executive of the Petitioner Company as Receiver to take over the possession of the financed medical equipment mentioned below from the possession of the respondents, their agent, employee, guarantors, co-borrowers or from anyone else who is/are in possession of the said financed machines / equipment and the receiver may be also allowed to take police assistance if necessary for the said purpose; and permit the receiver to look after the Management and up keep of the said subject property / financed machines / medical equipment.*

S. No.	Equipment	Manufacturer	Dealer	Unit
1.	Refurbished Philips3t Achieve MRI	Philips	Master Medical Equipment's	1

iii. Restrain Respondents, its heirs, agents, servants, employees, representatives etc. from Using, disposing off, selling, alienating, dismantling or creating third party interest or from concealing the whole or any part of above referred Hypothecated Medical Equipments.”

2. When the matter came up for hearing on 24.03.2025, this Court directed as under:-

“17. For the said reasons, Mr. Neeraj Dahiya (Mob. No. 7011095037) is appointed as a



Receiver to take over the possession of Financed Hypothecated Medical Equipment as mentioned in the prayer clause from the respondents and their agents.”

3. On the next date of hearing i.e. 09.05.2025, this Court in para 4 recorded as under:-

“4. Without going into the merits of the allegations, since the order dated 24.03.2025 has neither been stayed, varied, modified or vacated, it is directed that the receiver shall visit the premises of respondent No. 1 on 12.05.2025 at 11:00 a.m., where respondent No. 1, its agents, servants, as well as officers, shall cooperate.”

4. I am informed that the Arbitrator has already been appointed and the matter is pending adjudication before the Arbitrator.

5. Since the Arbitrator has already been appointed, I am of the view that the present petition shall be treated as an application under section 17 of Arbitration and Conciliation Act, 1996 by the Arbitrator and be adjudicated in accordance with law.

6. The interim orders dated 24.03.2025 and 09.05.2025 shall continue till the same is varied/modified/vacated by the Arbitrator.

7. Mr. Shekhawat appears through VC and states that in terms of the order dated 24.03.2025, the representative of the petitioner may visit the premises of the respondent on 26.05.2025 at 11:00 AM to take symbolic possession in terms of the order passed by this Court.

8. List on 29.07.2025 to ensure that respondent Nos. 1



and 2 gives a payment plan and to show the bonafides.”

4. The contention is that the Id. Single Judge had earlier appointed a Receiver in this matter. However, thereafter, the said order has not been reiterated and has been discontinued.

5. Heard Id. Counsel for the parties. The Court has also perused the impugned order. The relevant provisions for consideration would be Section 37 of the 1996 Act and Section 13 of the 2015 Act, which read as under:

“Section 37 of 1996 Act

37. Appealable orders.—(1) An appeal shall lie from the following orders (and from no others) to the Court authorised by law to hear appeals from original decrees of the Court passing the order, namely:—

- (a) refusing to refer the parties to arbitration under section 8;*
- (b) **granting or refusing to grant any measure under section 9;***
- (c) setting aside or refusing to set aside an arbitral award under section 34.*

Section 13 of 2015 Act

13. Appeals from decrees of Commercial Courts and Commercial Divisions.—

(1) 1 Any person aggrieved by the judgment or order of a Commercial Court below the level of a District Judge may appeal to the Commercial Appellate Court within a period of sixty days from the date of judgment or order.

(1A) Any person aggrieved by the judgment or order of a Commercial Court at the level of District Judge exercising original civil jurisdiction or, as the case may be, Commercial Division of a High Court may appeal to the Commercial Appellate Division of that High Court within a period of sixty days from the date of the judgment or order:

Provided that an appeal shall lie from such orders passed by a Commercial Division or a Commercial Court that are



specifically enumerated under Order XLIII of the Code of Civil Procedure, 1908 (5 of 1908) as amended by this Act and section 37 of the Arbitration and Conciliation Act, 1996 (26 of 1996).”

6. In the opinion of this Court, the impugned order is not an appealable order under Section 13 of the 2015 Act as *vide* the impugned order the petition is still pending before the Id. Single Judge. The Receiver was initially appointed *vide* order dated 9th May, 2025, however, now the Appellant has also been referred to seek interim measures before the Arbitral Tribunal. A careful reading of the impugned order would show that the matter is still under consideration before the Id. Single Judge.

7. Accordingly, the appeal is dismissed as being not maintainable. The merits of the appeal have not been gone into.

8. Ld. Counsel for the Petitioner submits that an appeal has also been filed by Respondent Nos.1 and 2 being **FAO (OS) (COMM) 51/2025** titled **Ms Atrium Newgen Diagnostics v. Ms Clix Capital Services Pvt. Ltd. & Ors.** The same is stated to be listed on 17th July, 2025.

9. The Appellant is free to move before the Id. Single Judge if any further relief is to be sought.

PRATHIBA M. SINGH, J.

RAJNEESH KUMAR GUPTA, J.

MAY 30, 2025

Rahul/msh