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

+ EX.F.A. 26/2025, CM APPL. 46765/2025-Exp.

M/S GOLDEN M. P. CHIT FUND PVT. LTD.Appellant
Through: Mr. Girik Tolani, Mr. Sahil Tanwar
and Ms. Sakshi Kharbanda, Advs.

versus

SUBHASH AND ORS.Respondents
Through: None.

CORAM:
HON'BLE MR. JUSTICE SAURABH BANERJEE

ORDER
18.08.2025

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1. By virtue of the present execution appeal, the appellant seeks the setting aside of the impugned judgment dated 17.04.2025 passed by the District Judge-01 (NORTH-WEST), Rohini Courts, New Delhi, in Execution Civil No. 58555/2016, along with the ancillary reliefs.
2. It is the case of the appellant that though the arbitration proceedings were initiated before the learned Sole Arbitrator as per the Agreement *inter se* the parties on 24.04.2015 and subsequently since none appeared for and on behalf of the respondents, the learned Sole Arbitrator proceeded to pass an *ex parte* Award on 30.10.2015 in favour of the appellant and against the respondents.
3. Subsequent thereto, the appellant filed the execution proceedings before the learned Execution Court on 21.04.2016, wherein, after issuance of notice, the respondent no.1 himself, as also respondent no.2, appeared



before the learned Executing Court on 28.10.2016. Thereafter, though the respondent no.1 filed objections and an affidavit of assets on 31.01.2018, however, the same were not pressed by him, and in fact the respondent no.1 had also made certain payments to the appellant on 07.05.2019 and 25.05.2019 in pursuance to the Award dated 30.10.2015. Thereafter an application under *Section 151* of the Code of Civil Procedure, 1908, filed by the respondent no.1 in the form of objections was dismissed by the learned Executing Court on 01.04.2022.

4. Subsequent thereto, the learned Executing Court has passed the impugned order dismissing the execution petition of the petitioner and has declined to enforce the Award, and thus dismissed the execution petition in terms of *Section 36* of the Arbitration and Conciliation Act, 1996 (**A&C Act**).

5. As per learned counsel for the appellant, the impugned order is liable to be set aside since the learned Executing Court has failed to appreciate the fact that the learned Sole Arbitrator was appointed prior to the amendment of *Section 12(5)* of the A&C Act, which came into effect on 23.10.2015 as also since the arbitral proceedings had already culminated before the learned Sole Arbitrator, as the last date of hearing before him was 12.10.2015. Therefore, in effect, as per learned counsel the amendment in the A&C Act had no bearing to the facts involved in the present case. It is the case of learned counsel that though each of the aforesaid grounds were duly raised and argued before the learned Executing Court, however, the same have not been considered in the impugned order as they do not find any mention thereof therein.

6. In view of the above, learned counsel for the appellant seeks, and is



granted, liberty for moving an appropriate application for seeking review of the impugned order dated 17.04.2025 for raising/ agitating the aforesaid issues before the learned Executing Court. The appellant will take appropriate steps to file the said review petition within a period of *one week*.

7. Needless to say, the appellant shall be entitled to the benefit of *Section 14* of the Limitation Act, 1963.

8. Accordingly, learned counsel for the appellant seeks leave to withdraw the present appeal with liberty as mentioned above.

9. In view of the aforesaid the present execution appeal, along with the pending application, stands disposed of.

10. It is clarified that this Court has not made any observations on the merits and the learned Execution Court shall be free to consider the review petition of the appellant on its own merits uninfluenced with the observations made in the present order.

SAURABH BANERJEE, J.

AUGUST 18, 2025/bh