



2025:DHC:10895



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI****Date of decision: 18.11.2025**+ **ARB.P. 1193/2025**

SUMAN KUMAR SETH

.....Petitioner

Through: Mr. Manoranjan Padhi, Ms. Shahina
Hussain Advs.

versus

NEELU KAPUR

.....Respondent

Through: Mr. Sarthak Bhatia, Ms. Avinash
Kaur, Ms. Tanshi Bharti, Ms. Tamanna
Awasthi Advocates**CORAM:****HON'BLE MR. JUSTICE JASMEET SINGH**: **JASMEET SINGH, J (ORAL)**

1. This is a petition filed under Section 11(6) of the Arbitration and Conciliation Act, 1996 ("**1996 Act**") seeking appointment of an Arbitrator for adjudication of disputes between the parties.
2. The brief facts are that a Deed of Family Settlement dated 11.03.2008 ("**Settlement Deed**") was executed between the petitioner and his family members being Mrs. Mangla Seth (petitioner's mother), Sh. Navesh Seth (petitioner's specially-abled brother through Mrs. Mangla Seth) and the respondent (petitioner's sister) for distribution of assets belonging to Sh. Surinder Kumar Seth i.e., parties' father and also for the well-being of Sh. Navesh Seth.
3. The Settlement Deed contains an arbitration clause being Clause No.



11, which reads as under:-

“11. That the parties hereto undertake to abide by their respective obligations under this Deed of Family Settlement for peaceful enjoyment of the respective shares. In case of any dispute or difference between the parties, the same shall be settled amicably. In case the parties fail to arrive at an amicable settlement, then the same shall be referred to arbitration of a person, mutually acceptable to both the parties, whose decision shall be final and binding upon the Parties. The arbitrator shall hold the proceedings in New Delhi and in accordance with the provisions of the Arbitration and Conciliation Act, 1996. In such arbitration proceedings, the Fourth Party shall be represented by the Second Party or the Third Party, as the case may be.”

4. As per the terms of the Settlement Deed, the partnership businesses being run in the name and style of S.K. Seth & Sons and S.K. Seth Engineering Co., came to the exclusive share of the petitioner.
5. As for the immovable property bearing No. A-1/91, Safdarjung Enclave, New Delhi, it was agreed as per the Clause No. 2.3.6 of the Settlement Deed that the parties will sell the property and Rs. 1 crore out of sale proceeds shall be deposited by way of Fixed Deposit or other long-term deposit/investment, in name of Sh. Navesh Seth and the remaining consideration shall be shared equally between the petitioner and Mrs. Mangla Seth.
6. As per Clauses No. 3.2 and 3.3 of the Settlement Deed, Mrs. Mangla Seth was to take care of Sh. Navesh Seth and consequently, was



entitled to receive monthly income from the investment made in the name of Sh. Navesh Seth to be used for the benefit of Sh. Navesh Seth. It was further agreed that in case Mrs. Mangla Seth predeceases Sh. Navesh Seth, then the respondent would be the guardian of Sh. Navesh Seth and would be entitled to receive the income from such investments and use the money for welfare and enjoyment of Sh. Navesh Seth.

7. Further, as per Clause No. 3.4 of the Settlement Deed, in case of demise of Sh. Navesh Seth, the balance amount in his corpus was to be shared equally between the petitioner and Mrs. Mangla Seth or the respondent, as the case may be. The Clause No. 3.4 of the Settlement Deed is extracted below:-

3.4. In case of unforeseen demise of the Fourth Party, the balance amount in the corpus of the Fourth Party shall be shared equally by the First Party or his legal heirs on one hand, and the Second Party or the Third Party, or her legal heirs as the case may be, on the other. If Second Party receives any such share in the corpus, then she shall be entitled to use the said amount in such manner, as she may like and the First Party or his legal heirs shall not have any claim in such share even after the demise of the Second Party. In the event of unforeseen demise of the Fourth Party the balance amount in the corpus of the Fourth Party shall be divided in two equal shares between the party of the first and second part or the party of the first and third part as the case may be. In fact two fixed deposit receipt in the name of the party of the first and second/third party will be got prepared from the bank, in which fixed deposit in the name of party of fourth part is made.



8. In the clause extracted above, the “First Party” is the petitioner, the “Second Party” is Mrs. Mangla Seth, “Third Party” is the respondent and “Fourth Party” is Sh. Navesh Seth.
9. Admittedly, Mrs. Mangla Seth passed away in the year 2015 and thereafter, the respondent became the natural guardian of Sh. Navesh Seth. Later, Sh. Navesh Seth passed away in the year 2022.
10. After the demise of Sh. Navesh Seth, the petitioner was intimated by the UCO Bank, Delhi High Court Branch that the investment made by the petitioner in the name of Sh. Navesh Seth had been liquidated and therefore, the amount of Rs. 50,00,000/- was credited in the account of the petitioner.
11. Since, as per the statement of TDS deduction from the Bank, an interest of Rs. 43,33,293.09/- was accrued and paid on Rs. 50,00,000/- till 12.02.2022 i.e., date of demise of Sh. Navesh Seth, the petitioner estimated interest of Rs. 86,66,586.18/- on the entire investment of Rs. 1 crore.
12. Consequently, the petitioner filed a suit for recovery being C.S. No. 4165 of 2024 for Rs. 33,35,543/- (being half of the accrued interest on the investment of Rs. 1 crore after deducting estimated expenditure incurred by the respondent on Sh. Navesh Seth’s wellbeing), damages of Rs. 15,00,000/- and rendition of accounts alongwith future and *pendente lite* interest @ 18% p.a. from 12.02.2022. The same was rejected and the parties were referred to arbitration.
13. Thereafter, the petitioner invoked arbitration *vide* legal notice dated 10.06.2025 and thereafter, filed the present petition.
14. Mr. Padhi, learned counsel for the petitioner, states that an interest of



Rs. 43,33,293.09/- was accrued on petitioner's share till 12.02.2022 i.e., date of demise of Sh. Navesh Seth, thus, on the total investment of Rs. 1 crore the interest generated would be Rs. 86,66,586.18/-. He further states that estimating monthly expenditure towards Sh. Navesh Seth to be around Rs. 15,000/-, the expenditure over the needs of Sh. Navesh Seth could not have been beyond Rs. 20 lakhs. Hence, out of the estimated interest of Rs. 86,66,586.18/-, Rs. 66,66,586.18/- would be left with the respondent, which she has not accounted till date and petitioner is entitled for half of it.

15. *Per contra* Mr. Bhatia, learned counsel for the respondent, among other grounds, argues that there is no arbitrable dispute or live issue requiring adjudication through arbitration. Further, it is stated that the interest accrued on the fixed deposit was utilized solely for the benefit of Sh. Navesh Seth and to ensure that his needs like medical, personal, and educational.
16. I have heard learned counsels for both the parties.
17. The power of referral Court under Section 11 of the 1996 Act is well-settled and has been clearly laid down by the Hon'ble Supreme Court in ***SBI General Insurance Co. Ltd. v. Krish Spg., (2024) 12 SCC 1*** as under:-

“95. The position that emerges from the aforesaid discussion of law on the subject as undertaken by us can be summarised as follows:

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95.2. Under the 1996 Act, the power under Section 11 was characterised as an administrative one as acknowledged in the



decision in Konkan Railway [Konkan Railway Corpn. Ltd. v. Rani Construction (P) Ltd., (2002) 2 SCC 388] and this continued till the decision of a seven-Judge Bench in SBP & Co. [SBP & Co. v. Patel Engg. Ltd., (2005) 8 SCC 618] overruled it and significantly expanded the scope of judicial interference under Sections 8 and 11, respectively, of the 1996 Act. The decision in Jayesh Engg. [Jayesh Engg. Works v. New India Assurance Co. Ltd., (2000) 10 SCC 178] adopted this approach in the context of “accord and satisfaction” cases and held that the issue whether the contract had been fully worked out and whether payments had been made in full and final settlement of the claims are issues which should be left for the arbitrator to adjudicate upon.

95.3. *The decision in SBP & Co. [SBP & Co. v. Patel Engg. Ltd., (2005) 8 SCC 618] was applied in Boghara Polyfab [National Insurance Co. Ltd. v. Boghara Polyfab (P) Ltd., (2009) 1 SCC 267 : (2009) 1 SCC (Civ) 117] and it was held by this Court that the Chief Justice or his designate, in exercise of the powers available to them under Section 11 of the 1996 Act, can either look into the question of “accord and satisfaction” or leave it for the decision of the arbitrator. However, it also specified that in cases where the Chief Justice was satisfied that there was indeed “accord and satisfaction”, he could reject the application for appointment of arbitrator. The prima facie standard of scrutiny was also expounded, stating that the party seeking arbitration would have to prima*



facie establish that there was fraud or coercion involved in the signing of the discharge certificate. The position elaborated in Boghara Polyfab [National Insurance Co. Ltd. v. Boghara Polyfab (P) Ltd., (2009) 1 SCC 267 : (2009) 1 SCC (Civ) 117] was adopted in a number of subsequent decisions, wherein it was held that a mere bald plea of fraud or coercion was not sufficient for a party to seek reference to arbitration and prima facie evidence for the same was required to be provided, even at the stage of the Section 11 petition.

95.4. The view taken by SBP & Co. [SBP & Co. v. Patel Engg. Ltd., (2005) 8 SCC 618] and Boghara Polyfab [National Insurance Co. Ltd. v. Boghara Polyfab (P) Ltd., (2009) 1 SCC 267 : (2009) 1 SCC (Civ) 117] was seen by the legislature as causing delays in the disposal of Section 11 petitions, and with a view to overcome the same, Section 11(6-A) was introduced in the 1996 Act to limit the scope of enquiry under Section 11 only to the extent of determining the “existence” of an arbitration agreement. This intention was acknowledged and given effect to by this Court in the decision in Duro Felguera [Duro Felguera, S.A. v. Gangavaram Port Ltd., (2017) 9 SCC 729 : (2017) 4 SCC (Civ) 764] wherein it was held that the enquiry under Section 11 only entailed an examination whether an arbitration agreement existed between the parties or not and “nothing more or nothing less”.

95.5. Despite the introduction of Section 11(6-A) and the



decision in Duro Felguera [Duro Felguera, S.A. v. Gangavaram Port Ltd., (2017) 9 SCC 729 : (2017) 4 SCC (Civ) 764] , there have been diverging views of this Court on whether the scope of the Referral Court under Section 11 of the 1996 Act includes the power to go into the question of “accord and satisfaction”. In Antique Art [United India Insurance Co. Ltd. v. Antique Art Exports (P) Ltd., (2019) 5 SCC 362 : (2019) 2 SCC (Civ) 785] it was held that unless some prima facie proof of duress or coercion is adduced by the claimant, there could not be a referral of the disputes to arbitration. This view, however, was overruled in Mayavati Trading [Mayavati Trading (P) Ltd. v. Pradyuat Deb Burman, (2019) 8 SCC 714 : (2019) 4 SCC (Civ) 441] which reiterated the view taken in Duro Felguera [Duro Felguera, S.A. v. Gangavaram Port Ltd., (2017) 9 SCC 729 : (2017) 4 SCC (Civ) 764] and held that post the 2015 Amendment to the 1996 Act, it was no more open to the Court while exercising its power under Section 11 of the 1996 Act to go into the question of whether “accord and satisfaction” had taken place.

95.6. The decision in Vidya Drolia [Vidya Drolia v. Durga Trading Corpn., (2021) 2 SCC 1 : (2021) 1 SCC (Civ) 549] although adopted the view taken in Mayavati Trading [Mayavati Trading (P) Ltd. v. Pradyuat Deb Burman, (2019) 8 SCC 714 : (2019) 4 SCC (Civ) 441] yet it provided that in exceptional cases, where it was manifest that the claims were ex facie time-barred and deadwood, the Court could



interfere and refuse reference to arbitration. Recently, this view in the context of “accord and satisfaction” was adopted in NTPC Ltd. v. SPML Infra Ltd. [NTPC Ltd. v. SPML Infra Ltd., (2023) 9 SCC 385 : (2023) 4 SCC (Civ) 342] wherein the “eye of the needle” test was elaborated. It permits the Referral Court to reject arbitration in such exceptional cases where the plea of fraud or coercion appears to be ex facie frivolous and devoid of merit.

96. Thus, the position after the decisions in Mayavati Trading [Mayavati Trading (P) Ltd. v. Pradyut Deb Burman, (2019) 8 SCC 714 : (2019) 4 SCC (Civ) 441] and Vidya Drolia [Vidya Drolia v. Durga Trading Corpn., (2021) 2 SCC 1 : (2021) 1 SCC (Civ) 549] is that ordinarily, the Court while acting in exercise of its powers under Section 11 of the 1996 Act, will only look into the existence of the arbitration agreement and would refuse arbitration only as a demurrer when the claims are ex facie frivolous and non-arbitrable.”

(Emphasis added)

18. Applying the principles of **SBI General Insurance (supra)** to the present case, to my mind, there are no arbitrable disputes between the parties.
19. The amount of Rs. 1 crore was invested for the welfare and benefit of Sh. Navesh Seth, specially-abled brother of the petitioner and the respondent, and the interest/ income accrued on said investment was to be used for the meeting the needs of Sh. Navesh Seth. Further, in terms of the Settlement Deed, earlier Mrs. Mangla Seth and upon her demise



the respondent was to utilise the said interest/ income accrued on the investment for the benefit of Sh. Navesh Seth.

20. As per Clause No. 3.4 of the Settlement Deed, as extracted above, upon demise of Sh. Navesh Seth, the balance corpus in name of Sh. Navesh Seth would be share equally between the petitioner and Mrs. Mangla Seth or the respondent, as the case maybe.
21. Admittedly, after the demise of Sh. Navesh Seth, 50% of Rs. 1 crore investment in the name of Sh. Navesh Seth i.e., Rs. 50,00,000/- was credited in petitioner's account. Hence, he has no claims left pertaining to that.
22. The petitioner is seeking share in the interest accrued on his share in the investment of Rs. 1 crore and the same is based on the assumption that estimated monthly expenditure of Sh. Navesh Seth was around Rs. 15,000/-. The petitioner has stated that an interest of Rs. 43,33,293.09/- was accrued on his share of Rs. 50,00,000/- till 12.02.2022 i.e., date of demise of Sh. Navesh Seth. Thus, on the total investment of Rs. 1 crore the interest generated would be Rs. 86,66,586.18/-. Hence, the petitioner urges that estimating Sh. Navesh Seth monthly expenditure to be around Rs. 15,000/-, the overall expenditure could not have been more than Rs. 20 lakhs, thereby, out of the estimated interest of Rs. 86,66,586.18/-, Rs. 66,66,586.18/- would be left with the respondent and petitioner is entitled for half of it i.e., Rs. 33,35,543/-.
23. The same does not persuade me. As per Clause No. 5 of the Settlement Deed having received his share in the immovable property as stated in Clause No. 2.3.6(b) of the Settlement Deed and as provided in Clause No. 3.4 of the Settlement Deed, the petitioner will have no claim on the



monies received by the respondent. The Clauses No. 2.3.6(b) and 5 of the Settlement Deed are extracted below:-

“2.3.6. The consideration realized from sale of the property shall be shared amongst the Parties, as under:

a) Rs.1,00,00,000/- (Rupees One Crore only) shall be paid in the name of Fourth Party. The original Fixed Deposit Receipt will be kept in a sealed cover with the Registrar, Delhi High Court, New Delhi.

b) Remaining consideration shall be shared equally between the Parties of First and Second Parts.

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5. After receiving his share of consideration in the above said immovable property, as stated in Clause 2.3.6(b) above, the First Party shall have no right or claim in the moneys received by the Parties of Second and Third Part in any manner whatsoever, except to the extent of receiving his share, as provided in Clause 3.4 above.”

24. Nowhere the Settlement Deed states that after demise of Sh. Navesh Seth, the petitioner will have share in the interest accrued on the investment made in his name or that he could call upon the respondent to show accounts of expenses incurred by the her towards Sh. Navesh Seth or seek any rendition of accounts *qua* the expenses made to look after the specially-abled brother i.e., Sh. Navesh Seth, earlier by Mrs. Mangla Seth and thereafter by the respondent.
25. The petitioner's entitlement under the Settlement Deed is to Rs. 50 lakhs after the demise of Sh. Navesh Seth. Prior to the demise of Sh.



Navesh Seth the petitioner did not have any entitlement in claims either in Rs. 50 lakhs investment or interest accrued on the said investment. Hence, to my mind, the claim of the petitioner is dead wood.

26. The Hon'ble Supreme Court in ***Vidya Drolia v. Durga Trading Corpn., (2021) 2 SCC 1***, while reiterating the scope of Section 11 of the 1996 Act observed as under:-

“154.4. Rarely as a demurrer the court may interfere at Section 8 or 11 stage when it is manifestly and ex facie certain that the arbitration agreement is non-existent, invalid or the disputes are non-arbitrable, though the nature and facet of non-arbitrability would, to some extent, determine the level and nature of judicial scrutiny. The restricted and limited review is to check and protect parties from being forced to arbitrate when the matter is demonstrably “non-arbitrable” and to cut off the deadwood. The court by default would refer the matter when contentions relating to non-arbitrability are plainly arguable; when consideration in summary proceedings would be insufficient and inconclusive; when facts are contested; when the party opposing arbitration adopts delaying tactics or impairs conduct of arbitration proceedings. This is not the stage for the court to enter into a mini trial or elaborate review so as to usurp the jurisdiction of the Arbitral Tribunal but to affirm and uphold integrity and efficacy of arbitration as an alternative dispute resolution mechanism.”

(Emphasis added)

27. A referral Court under Section 11 of the 1996 Act is not to conduct a



mini trial or to adjudicate the disputes on merits. However, it can examine if there are any arbitrable claims and reject appointment of an Arbitral Tribunal in cases of *prima facie* non-existence of arbitrable claims. A referral Court need not undertake full examination of the facts and must limit itself to the *prima facie* review of arbitrability of the claims.

28. In the present case, the petitioner has failed to demonstrate the existence of any arbitrable dispute or issue under the valid arbitration agreement. The Settlement Deed executed between the parties settled all the claims between the parties, and the petitioner has even received his share in Sh. Navesh Seth's corpus after his demise. The claim of the petitioner of possible accrued interest on his share of Rs. 50,00,000/- is not only frivolous, misconceived but was also not available in terms of the Settlement Deed.
29. In view of the aforesaid, the present petition is devoid of any merit and hence, the same is dismissed.

JASMEET SINGH, J

NOVEMBER 18, 2025 / (MS)

(Corrected and released on 04.12.2025)