



2025:DHC:11873



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

% *Date of Decision: 18th December 2025*

+ **ARB.P. 1495/2025**

4 SAI MAA VISHNU SHAKTI TRUST &
ANR.

.....Petitioners

Through: Mr. Virender Ganda, Senior Advocate
with Mr. Vishal Ganda, Mr. Ayandeb
Mittra, Ms. Shilpa Ohri, Ms. Charmi
Khurana and Ms. Diksha Joshi,
Advocates

versus

SHRI SATUA BABA ASHRAM TRUST &
ANR.

.....Respondents

Through: Mr. Vaibhav Mishra and Mr. Ekansh
Mishra, Advocates

+ **O.M.P.(I) (COMM.) 264/2025, I.A. 20870/2025**

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CORAM:

HON'BLE MR. JUSTICE AMIT BANSAL



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ORDER
18.12.2025

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1. The present petition has been filed under Section 11(5) of the Arbitration and Conciliation Act, 1996, ('Act') seeking appointment of a Sole Arbitrator for the adjudication of the disputes between the parties arising out of a Settlement Agreement dated 7th May, 2024 ('Settlement Agreement').
2. It is stated that the Settlement Agreement contains an arbitration clause *i.e.* Clause 11, which provides for adjudication of any disputes arising between the parties by arbitration.
3. It is stated that disputes arose between the parties in relation to the ownership and title of the property situated at B-6/70, Pitambarpura, Harishchandra Ghat, Varanasi, Uttar Pradesh ('Shaktidham Ashram'). Thereafter, the parties entered into the aforesaid Settlement Agreement, in terms of which petitioners paid a sum of Rs. 1,95,00,000/- to the respondents.
4. It is contended by the petitioners that the respondents have trespassed upon and are in illegal occupation of Shaktidham Ashram, in breach of the terms of the Settlement Agreement. It is further contended that the respondents are attempting to alienate the Shaktidham Ashram land.
5. It is stated that since there were disputes between the parties, the petitioners issued a Notice dated 22nd July, 2025 under Section 21 of the Act invoking the arbitration clause. However, the respondents failed to respond to the said notice. Hence, the petitioners have been constrained to approach this Court by way of the present petition.



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6. Reply has been filed on behalf of respondents, wherein the respondents have *inter alia* stated that the Settlement Agreement which contains the arbitration clause is a forged and fabricated document.

7. Counsel for the respondents submits that this Court may send the aforesaid Settlement Agreement to the Central Forensic Science Laboratory ('CSFL') to assess the genuineness of the signatures of the representative of the respondent no.1 on the said document.

8. Mr. Virender Ganda, Senior Counsel appearing on behalf of the petitioners, submits that the aforesaid request may be made at the stage of arbitration before the Arbitral Tribunal. He submits that such a request may not be entertained in proceedings under Section 11 of the Act. He relies upon the judgment of the Coordinate Bench ***Axis Finance Ltd. v. Mr. Agam Ishwar Trimbak***, 2025:DHC:7477 ('*Agam Ishwar*').

9. Mr. Ganda further submits that in pursuance of the aforesaid settlement agreement, the respondent has accepted a sum of ₹1,95,00,000/- from the petitioners.

10. I have heard the counsel for the parties.

11. At the outset, it is pertinent to outline the scope of pre-referral jurisdiction under Section 11 of the Act.

12. The Supreme Court in ***Vidya Drolia and Ors. v. Durga Trading Corporation***, (2021) 2 SCC 1 ('*Vidya Drolia*') has comprehensively analysed the pre-referral jurisdiction under Section 11(6) of the Act. Interpreting the expression "existence of an arbitration agreement", the Supreme Court laid down a 'Prima Facie Test'. This test aims at examining the *existence* and *validity* of an arbitration agreement, *albeit* on a *prima facie* basis. Relevant extracts from the said judgment are set out below:



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“153. Accordingly, we hold that the expression “existence of an arbitration agreement” in Section 11 of the Arbitration Act, would include aspect of validity of an arbitration agreement, albeit the Court at the referral stage would apply the prima facie test on the basis of principles set out in this judgment. In cases of debatable and disputable facts, and good reasonable arguable case, etc., the Court would force the parties to abide by the arbitration agreement as the Arbitral Tribunal has primary jurisdiction and authority to decide the disputes including the question of jurisdiction and non arbitrability.”

[emphasis supplied]

13. In *In Re: Interplay Between Arbitration Agreements Under Arbitration and Conciliation Act, 1966 and Stamp Act, 1899*, (2024) 6 SCC 1 (*In Re: Interplay*), the Supreme Court confined the analysis under Section 11 of the Act to the existence of an arbitration agreement. The relevant extracts from the said judgment are set out below:

“166. The burden of proving the existence of arbitration agreement generally lies on the party seeking to rely on such agreement. In jurisdictions such as India, which accept the doctrine of competence-competence, only prima facie proof of the existence of an arbitration agreement must be adduced before the referral Court. The referral Court is not the appropriate forum to conduct a minitrial by allowing the parties to adduce the evidence in regard to the existence or validity of an arbitration agreement. The determination of the existence and validity of an arbitration agreement on the basis of evidence ought to be left to the arbitral tribunal. This position of law can also be gauged from the plain language of the statute.

167. Section 11(6A) uses the expression “examination of the existence of an arbitration agreement.” The purport of using the word “examination” connotes that the legislature intends that the referral Court has to inspect or scrutinize the dealings between the parties for the existence of an arbitration agreement. Moreover, the expression “examination” does not connote or imply a laborious or contested inquiry. On the other hand, Section 16 provides that the arbitral tribunal can “rule” on its jurisdiction, including the existence and validity of an arbitration agreement. A “ruling” connotes adjudication of disputes after admitting



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evidence from the parties. Therefore, it is evident that the referral Court is only required to examine the existence of arbitration agreements, whereas the arbitral tribunal ought to rule on its jurisdiction, including the issues pertaining to the existence and validity of an arbitration agreement. A similar view was adopted by this Court in Shin-Etsu Chemical Co. Ltd. v. Aksh Optifibre Ltd.”

[emphasis supplied]

14. In *Agam Ishwar (supra)* there was a Personal Loan Agreement between the parties which contained an arbitration clause for adjudication of disputes between the parties. It was the contention of the respondent that the signatures on the Personal Loan Agreement are forged.

15. Relying upon the judgment of the Supreme Court in *Vidya Drolia (supra)* and *In Re: Interplay (supra)*, the Coordinate Bench of this Court in *Agam Ishwar (supra)* observed that in a proceeding under Section 11 of the Act, the Court only has to take a *prima facie* view on the existence of the arbitration agreement. The Court is not required to conduct any trial by permitting the parties to lead evidence in this regard. Accordingly, the Court held that it was outside the scope of Section 11 of the Act to examine whether the respondent in fact signed the Personal Loan Agreement. The Court observed that the Arbitral Tribunal is better placed to review the entire record and the evidence.

16. I am in complete agreement with the observations made in the aforesaid judgment. Facts of the present case are similar to that in *Agam Ishwar (supra)* in as much as the respondents are disputing the genuineness of signatures in the Settlement Agreement.

17. In my view, the validity and genuineness of the Settlement Agreement including the signatures of the representatives of the respondent is something which can be best decided in the arbitration proceedings.



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Therefore, the request for sending the signatures to CSFL can be made before the Arbitral Tribunal.

18. Accordingly, the disputes between the parties under the Settlement Agreement are referred to the Arbitral Tribunal comprising a Sole Arbitrator.

19. Justice (Retd.) S.P. Garg (Mobile No.: +91-9910384627) is appointed as a Sole Arbitrator to adjudicate the disputes between the parties.

20. The following directions are issued in this regard:

- a. The arbitral proceedings shall be held under the aegis of the Delhi International Arbitration Centre, Delhi High Court, Sher Shah Road, New Delhi (hereinafter '**DIAC**').
- b. The remuneration of the Arbitrator shall be in terms of DIAC (Administrative Cost and Arbitrators' Fees) Rules, 2018.
- c. The Arbitrator is requested to furnish a declaration in terms of Section 12 of the Act prior to entering into the reference. In the event there is any impediment to the Arbitrator's appointment on that count, the parties are given liberty to file an appropriate application before this Court.
- d. The parties shall approach the Arbitrator within two (2) weeks from today.

21. It is made clear that all the rights and contentions of the parties, including the arbitrability of any of the claims and/ or counter claims, the genuineness of signatures in the Settlement Agreement, any other preliminary objections as well as claims on merits of the dispute of either of the parties, are left open for adjudication by the Arbitrator.

22. The petition stands disposed of in the aforesaid terms.



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23. Needless to state, nothing in this order shall be construed as an expression of this Court on the merits of the case.

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24. In view of the order passed above, the order passed by this Court on 15th July 2025 is confirmed.

25. Liberty is given to the respondents to move an application under Section 17 of the Act seeking vacation or modification of the aforesaid order.

26. The aforesaid order of 15th July, 2025 shall continue till appropriate orders/directions are passed by the Arbitral Tribunal.

27. The petition stands disposed of in the aforesaid terms.

28. Accordingly, all pending applications stand disposed of.

AMIT BANSAL, J

DECEMBER 18, 2025
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