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

+ **O.M.P. (T) (COMM.) 109/2025**

HIMALAYAN FLORA AND AROMAS PVT. LTD.Petitioner

Through: Mr. Anand Mishra, Ms. Vandita Nain,
Ms. Ayushi Rajput and Mr. Devansh
Pundir, Advs.

versus

MUNICIPAL CORPORATION OF DELHIRespondent

Through: Mr. Sanjay Vashishtha, Standing
Counsel for MCD with Mr.
Siddhartha Goswami, Mr. Aditya
Sachdeva, Ms Geetanjali Reddy,
Advs and Mr Sanjeev Chaudhary,
ASO, MCD

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

ORDER

01.12.2025

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I.A. 28640/2025

1. This application under Section 152 read with 151 of CPC has been filed on behalf of the Petitioner seeking modification of the Order dated 03.11.2025 passed by this Court.

2. Paragraph No.3 of the Order dated 03.11.2025 reads as under:

“3. An emergency award dated 11.12.2024 had been passed by the learned Sole Arbitrator. The emergency award has been set aside since it was not implemented within a period of 30 days.”

3. It is stated by the learned Counsel for the Petitioner that in Paragraph No.3 of the Order dated 03.11.2025, this Court has recorded that the



emergency award has been set aside since it was not implemented within a period of 30 days, which is factually incorrect. He states that the emergency award was set aside because it could have remained in operation only for a period of 90 days from the date when it was passed, and not thereafter.

4. In view of the above, Paragraph No.3 of the Order dated 03.11.2025 is modified to the aforesaid extent.

5. Let the Order dated 03.11.2025 and the present Order be read conjointly.

6. The application is disposed of.

O.M.P. (T) (COMM.) 109/2025

1. The present petition under Section 14 read with Section 15 of the Arbitration and Conciliation Act, 1996 [“A&C Act”] has been filed by the Petitioner seeking termination of the mandate of the Arbitrator appointed by this Court vide Order dated 11.09.2025 passed in Arb. P. No.714/2025.

2. Material on record indicates that disputes arose between the Parties under a Tender Notice dated 24.09.2019 for “allotment of advertisement rights through designated clusters/individual unipole sites on Expressway NH24/9”. The Petitioner herein was the successful bidder. Since disputes arose between the parties, the Petitioner filed a petition being O.M.P.(I) (COMM.) 413/2024 under Section 9 of the A&C Act before this Court wherein this Court vide Order dated 06.12.2024 appointed an Arbitrator to adjudicate upon the disputes between the parties. Thereafter, an application being I.A. 47802/2024 was filed by the Petitioner seeking modification of the Order dated 06.12.2024 and invoking emergency arbitration. This Court vide Order dated 09.12.2024, modified the Order dated 06.12.2024 and directed the Arbitrator to conduct emergency arbitration proceedings. The



Arbitrator conducted the emergency arbitration proceedings and passed an Emergency Award dated 11.12.2024. The said Emergency Award was challenged by the Respondent/MCD by filing a petition under Section 34 of the A&C Act which was later converted into an appeal under Section 37 of the A&C Act. This Court vide Judgment dated 08.10.2025 set aside the Emergency Award dated 11.12.2024 passed by the Emergency Arbitrator. The relevant extract of the Judgment dated 08.10.2025 is reproduced below:

“9. Furthermore, an examination of Rule 14 of the Rules of 2023 additionally supports the view that, for the purposes of Rule 14, the terms ‘Emergency Arbitrator’ and ‘Arbitral Tribunal’ cannot be used interchangeably. Rule 14.11 of the Rules of 2023 clearly bars the Emergency Arbitrator from being a part of the Arbitral Tribunal unless otherwise agreed by the parties. No such agreement has been reached between the parties in the aforesaid regard. Therefore, clearly, for the purposes of the present dispute, the Emergency Arbitrator cannot be deemed to be ‘Arbitral Tribunal’ so as to exercise the power vested in the latter under Rule 14.13 of the Rules of 2023.

10. Merely because power is conferred to the Arbitral Tribunal for modification, substitution, vacation, or extension of the order of the Emergency Arbitrator, the same cannot be extended to the latter. If the powers which are essentially conferred to the Arbitral Tribunal are allowed to be read into the powers of the Emergency Arbitrator, the entire scheme and object of emergency arbitration under the A&C Act will be defeated. Therefore, the terms ‘Emergency Arbitrator’ and ‘Arbitral Tribunal’ cannot be used interchangeably, for the purposes of Rule 14 of the Rules of 2023. The aforesaid conclusion is the only possible view that can be taken by the Court without defeating the scheme of the A&C Act. Under these



circumstances, the Court is of the considered opinion that the Emergency Arbitrator is only empowered to pass an order which shall remain in operation for a period of 90 days from the date of passing the same.

11. It is pointed out by the learned counsel for the parties that although the aforesaid petition for appointment of the Arbitral Tribunal has been allowed, the arbitration proceedings are yet to commence. Therefore, it is clear that the order passed by the Emergency Arbitrator has not been modified/substituted or vacated by the Arbitral Tribunal.

12. Considering the facts, it is seen that the respondent is entitled to move an application under Section 9 or 17 of the A&C Act before the Arbitral Tribunal. If such an application is filed, the same shall be considered in accordance with law.”

3. However, it is pertinent to note that by the said Judgment dated 08.10.2025, this Court had extended the operation of Status Quo Order for a period of seven (7) days from 11.12.2024 which had been passed by the Arbitrator vide the Emergency Award.

4. Material on record further indicates that a second Section 9 petition being O.M.P.(I) (COMM.) 426/2025 was filed by the Petitioner which was disposed of by this Court vide Order dated 14.10.2025 by directing the Petitioner to invoke the arbitration clause and get the Arbitrator appointed and the Status Quo Order was further extended for a period of seven (7) days from 14.10.2025.

5. The Order dated 14.10.2025 was challenged by the Petitioner by filing an appeal being FAO(OS) (COMM) 175/2025 which was disposed of by the



Division Bench of this Court vide Order dated 17.10.2025, by further extending the Status Quo Order till 30.11.2025.

6. In the meantime, the Petitioner filed a petition Arb. P. No.714/2025 under Section 11 of the A&C Act and this Court vide Order dated 11.09.2025 appointed an Arbitrator.

7. Since the time of Status Quo Order which had been extended by the Division Bench was running out, the Petitioner filed the instant petition under Section 14 read with Section 15 of the A&C Act before this Court seeking termination of the mandate of the Arbitrator.

8. This Court on 03.11.2025, had adjourned the matter to see as to whether the Arbitrator would adjudicate upon the application filed under Section 17 of the A&C Act within the time period as stipulated by the Division Bench or not, and kept the matter for today.

9. Today, it is stated that the Arbitrator has decided the application filed under Section 17 of the A&C Act and Order has been passed.

10. In view of the above, the present petition has become infructuous and the same is disposed of as such. Pending applications, if any, also stand disposed of.

SUBRAMONIUM PRASAD, J

DECEMBER 01, 2025

S. Zakir