



2025:DHC:11713-DB



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

Date of decision: 18.12.2025

+ **FAO (COMM) 310/2025**

PRIMEMOVER MOBILITY TECHNOLOGIES PVT. LTD.

.....Appellant

Through: **Mr. Shreesh Chadha, Mr. Kartik Bhatnagar, Mr. Aman Singh Bakhshi, Mr. Shaurya Agarwal, Mr. Faiz, Adv.**

versus

SANMARG INFRA TECH PRIVATE LIMITED

.....Respondent

Through: **Mr. Rohit Jain, Adv.**

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

HON'BLE MR. JUSTICE RAJNEESH KUMAR GUPTA

NAVIN CHAWLA, J. (ORAL)

1. This appeal has been filed under section 37 of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as, the 'A&C Act'), challenging the Order dated 07.08.2025 passed by the learned District Judge (Commercial Court-01), Patiala House Courts Complex, New Delhi (hereinafter referred to as, the 'District Judge') in O.M.P.(Comm.) No. 230/2024, titled ***Primemover Mobility Technologies Pvt. Ltd. v. Sanmarg Infratech Private Limited***, whereby the application filed by the appellant herein under section 34 of the A&C Act was dismissed.

2. The Impugned Order has been passed by the learned District Judge on the ground that the appellant, despite time being granted,

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failed to file the Fixed Deposit Receipt ('FDR') of the mandatory pre-deposit of 75% of the awarded amount under Section 19 of the MSME Act.

3. The learned counsel for the appellant has drawn our attention to the email dated 02.08.2025, received by the appellant from the bank, namely Kotak Mahindra Bank, asking for signatures from the 'Registrar/Prothonotary & Senior Master', for preparation of the FDR. The appellant had brought this to the notice of the learned District Judge on 07.08.2025. However, the learned District Judge was of the opinion that there can be no such requirement and that it was for the appellant to take up this matter with its bankers, without the interference of the court.

4. When this appeal was listed before us on 24.11.2025, it was contended by the appellant that the FDR, along with the up-to-date interest, had been prepared and the appellant was in a position to deposit the same. It was also submitted that the amount required for preparing the FDR had been duly debited by the bank within the period granted by the learned District Judge.

5. Based on the said submission, we had issued notice of this appeal to the respondent.

6. The learned counsel for the respondent submits that the present appeal is not maintainable before this Court as it does not fall within the ambit and scope of section 37(1)(c) of the A&C Act. He submits that the Impugned Order is not an order refusing to set aside the Arbitral Award. In support of his contentions, he also places reliance



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on the Judgment of the Supreme Court in *Chintels India Ltd. v. Bhayana Builders Pvt. Ltd.*, 2021 INSC 76.

7. He further submits that the appellant company has since changed hands, however, the present appeal has been filed on the basis of an old Board Resolution dated 02.11.2021, which is under challenge by the respondent.

8. He submits that the appellant is misusing the process of the court, inasmuch as on 12.12.2024, the appellant had undertaken before the learned District Judge that it would deposit 100% of the awarded amount, along with interest, and on the basis of the said submission, the enforcement of the Impugned Arbitral Award was stayed. Later, the appellant, claiming financial constraints, did not deposit the said amount and the stay order was modified by the learned District Judge on 04.07.2025, directing the appellant to make the deposit of 75% of the arbitral amount along with updated interest. However, even this amount was not deposited by the appellant, and a new plea of a requisition from the bankers was pleaded. He submits that the learned District Judge, therefore, has rightly dismissed the application filed by the appellant under section 34 of the A&C Act.

9. We have considered the submissions made by the learned counsels for the parties.

10. From the above narration of facts, it would be apparent that the appellant was to deposit 75% of the awarded amount along with interest, in compliance with section 19(1) of the MSME Act and in terms of the order dated 04.07.2025. The appellant has placed before



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us a copy of the email dated 02.08.2025 from its bankers, requiring certain formalities from the court to be completed. While we agree with the learned District Judge that this was a matter between the appellant and its banker, however, given the above, the inability of the appellant to deposit the FDR in terms of the Order dated 04.07.2025 was not *malafide* or an attempt to buy more time. In fact, it has been contended by the learned counsel for the appellant that the amount for preparing the FDR had already been debited by the bank from the account of the appellant.

11. The learned District Judge, in given facts, should have awarded further time to the appellant to make this deposit, especially in light of the fact that by the Order dated 04.07.2025, it had been clarified that there was no stay on the enforcement of the Arbitral Award.

12. Coming to the objection of the learned counsel for the respondent on the maintainability of this appeal, the Impugned Order by which the application under section 34 of the A&C Act has been dismissed by the learned District Judge, would clearly fall within the ambit and scope of section 37(1)(c) of the A&C Act, as by the said Order, the learned District Judge has refused to set aside the award. In ***Chintels India Ltd.*** (supra), the Supreme Court has, in fact, clarified that section 37(1)(c) of the A&C Act is not limited to any particular sub-section thereof, but to the entire section 34 of the A&C Act, and that even a dismissal of an application under section 34 of the A&C Act on the ground of limitation would be subject to a challenge under section 37(1)(c) of the A&C Act. We, therefore, find no merit in the



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objection raised by the learned counsel for the respondent.

13. As far as the plea of the respondent that the present appeal has not been filed by an authorized officer of the appellant is concerned, we observe that the appeal is accompanied by a copy of the Board Resolution dated 02.11.2021, therefore, we do not find any merit in the objection of the respondent.

14. As far as the plea of the respondent that the appellant is misusing the process of the court is concerned, we find that while the learned District Judge, on a statement made by the appellant that it would deposit the entire awarded amount along with interest, had stayed the enforcement of the Arbitral Award by an Order dated 12.12.2024, on the failure of the appellant to deposit the said amount, the learned District Judge, by a subsequent Order dated 04.07.2025, had not only reduced the condition to pre-deposit of 75% in terms of section 19(1) of the MSME Act, but had also clarified that there will be no stay on the enforcement of the Arbitral Award. The said order is not in challenge before us. Therefore, on account of the failure of the appellant to make the deposit of the entire awarded amount, the stay on the enforcement of the award already stands lifted. We, therefore, fail to find any merit in the objection of the respondent on this account.

15. Accordingly, the Impugned Order dated 07.08.2025 passed by the learned District Judge is hereby set aside.

16. The application filed by the appellant under section 34 of the A&C Act, that is O.M.P.(Comm.) No. 230/2024, is restored to its



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original number, subject to the condition that the appellant shall deposit the FDR of the 75% of the awarded amount along with the interest calculated up to the date of preparation of the FDR, with the learned District Judge within a period of one week from today. In case of failure of the appellant to make the aforesaid deposit for any reason whatsoever, the application filed by the appellant under section 34 of the A&C Act, that is O.M.P.(Comm.) No. 230/2024, shall be deemed to have been dismissed.

17. The parties shall appear before the learned District Judge on 27th January, 2026 for further directions.

18. The appeal is disposed of in the above terms.

NAVIN CHAWLA, J

RAJNEESH KUMAR GUPTA, J

DECEMBER 18, 2025/prg/P/Yg