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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **ARB. A. (COMM.) 70/2025**
VIKRAM SINGH DOGRA & ANR.Appellants

Through:
versus

DEVENDER KUMAR & ANR.Respondents

Through: Mr. Aditya Sharda, Adv.

CORAM:

HON'BLE MR. JUSTICE JASMEET SINGH

ORDER

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10.12.2025

1. This is an appeal filed under Section 37 of the Arbitration and Conciliation Act, 1996 ("**1996 Act**") seeking to set aside the Order dated 30.09.2025 ("**impugned Order**") passed by the Sole Arbitrator in Arbitration Case No. 1271/2022 titled "*Sh. Devender Kumar and Anr. vs. Mr. Vikram Singh Dogra and Anr.*", whereby the appellant's application for recalling the Order dated 03.08.2023 was dismissed.
2. The brief facts are that the respondents are the owner of the property bearing No. 5, Sector 12A, Dwarka, New Delhi. The parties entered into a Lease Deed dated 05.10.2020, whereby the respondents let out the basement and ground floor of the said property to the appellants ("**Demised Premises**"). For the first year of the lease, the monthly rent was Rs. 5.5 lakhs and from the second year the monthly rent was Rs. 6 lakhs, exclusive of GST, electricity charges and water charges.
3. After getting the Demised Premises, the appellants incorporated a company under the name and style of M/s JKD Furniture Mart Private



Limited and invested around Rs. 52 lakhs for installation/ renovation work in the Demised Premises to run a departmental store.

4. Later, on 25.01.2022, the appellants received a notice from South Delhi Municipal Corporation, and it is then that the appellants came to know that the rented premise is residential in nature and the respondents had fraudulently stated that the Demised Premises were commercial in nature.
5. Since disputes arose between the parties, the respondents filed a petitioner under Section 11 of 1996 Act, and this Court appointed the Sole Arbitrator to adjudicate the dispute between the parties.
6. During the arbitral proceedings, the respondents filed an application under Section 17 of the 1996 Act, and the same was allowed by the Sole Arbitrator *vide* Order dated 03.08.2023, wherein the appellants were directed to pay a sum of Rs. 15,00,000/- towards rental dues, being 50% of the monthly rent due for the period from April 2023 to August 2023 and a sum of Rs. 3,00,000/- as rent, being 50% of the monthly rent from September 2023 onwards, during pendency of the proceedings or until the appellants hands over possession of the Demised Premises to the respondents, whichever is earlier.
7. Subsequently, the appellants filed an application seeking review/ recall of the Order dated 03.08.2023 and *vide* the impugned Order dated 30.09.2025, the appellants' application was dismissed by the Arbitrator.
8. Hence, the present appeal has been filed by the appellants.
9. Mr. Kumar, learned counsel for the appellants, states that the Sole Arbitrator failed to appreciate that the Lease Deed was void *ab-initio* as



the Demised Premises was let out for commercial purposes, which were contrary to the law. He further states that the respondents fraudulently mentioned in the Lease Deed that the Demised Premises were fit for commercial use, when infact the Demised Premises was residential in nature and hence, the Lease Deed was based on fraud and misrepresentation and is a void document under Section 23 of the Indian Contract Act, 1872.

10. For the said reasons, it is submitted that both Orders i.e., impugned Order dated 30.09.2025 and the Interim Order dated 03.08.2023 directing appellants to pay rent are liable to be set aside.
11. In my view, the Arbitrator in the Interim Order dated 03.08.2023 held that he is yet to form a definitive opinion regarding the rival contentions of the parties on the issues of the arbitration. The directions in the impugned order directing interim payments were passed on the basis of the trinity test of balance of convenience, irreparable loss and *prima-facie* case on the basis that the appellants continued to be in possession of the Demised Premises.
12. Further, the Arbitrator disposed of the appellants' application *vide* impugned Order dated 30.09.2023, reiterating the findings of the Order dated 03.08.2023 including the fact that the Order dated 03.08.2023 was only an interim measure and the Arbitrator is yet to form any definitive opinion regarding the rival contentions on the issues including the usage of the Demised Premises. The Arbitrator further held that under the statute, he had no power to review/ recall its order. The operative portion of the impugned Order is extracted below:-

“7. There is no gainsaying that my order dated 03.08.2023



was passed only as an interim measure of protection under section 17 of the Arbitration Act....

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9. The Respondents' subsequent contention (which they have introduced by an amendment to their Statement of Defence in January 2025) that the lease agreement dated 05.10.2020 is void is an argument whose merits are yet to be considered by this Tribunal. In fact, this Tribunal has expressly framed the following issues, amongst others

10. Secondly , in the given facts and circumstances, it is evident that this Tribunal does not have the power to recall or, for that matter, review its earlier order issued under section 17 of the Arbitration Act. (In my view, by seeking a fresh consideration of the Claimants' application for interim relief, the Respondents are essentially seeking a review of this Tribunal's order dated 03.08.2023).

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13.It is not the Respondents' case that any procedural defect has vitiated this Tribunal's order dated 03.08.2023. Rather, they seek a recall of said order by advancing arguments that go to the merits of the dispute between the parties and for which, as I mentioned earlier, this Tribunal has already framed appropriate issues. Consequently, I am not empowered to recall or review the order dated 03.08.2023 for the reason given by the Respondents."

13. A bare perusal of the paragraphs, reproduced above, shows that the



Arbitrator refusal to recall its order is based on the contention that the Arbitrator lacks power to do so under the law. The Arbitrator observed that as per the law a recall can be sought in case of procedural defect whereas, the appellants were seeking recall on the merits of the disputes for which issues were already framed. According to me, these findings of the Arbitrator were based on law and within the powers of the Arbitrator.

14. I find no infirmity in the impugned Order. The Arbitrator *vide* Order dated 03.08.2023 has only passed an Interim order and in the impugned Order, the Arbitrator clearly states that it is yet to form any definitive opinion on the issues of the arbitration.
15. In view of the aforesaid, the present appeal is dismissed.

JASMEET SINGH, J

DECEMBER 10, 2025/sp