2025:DHC:7254

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

\+ **ARB.P. 230/2025**

Date of Decision**: 19.08.2025**

IN THE MATTER OF:

91 SPRINGBOARD BUSINESS HUB PRIVATE LIMITED .....Petitioner

Through: Mr. Deepanshu Goga, Adv.

versus

M/S ANT CREATIVES OPC PRIVATE LIMITED .....Respondent

Through: None.

CORAM:
HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

JUDGEMENT

PURUSHAINDRA KUMAR KAURAV, J. (ORAL)

1. Despite service, no one has appeared for the respondent.

2. The facts of the case would indicate that the petitioner and the respondent have entered into a co-working agreement dated 23.03.2023.

3. The respondent, under the said co-working agreement, was to make payment of monthly membership fees in order to avail the services of the co-working centre of the petitioner. As per the case set up by the petitioner, the respondent defaulted in the payment of monthly membership fees and thereafter, unilaterally terminated its membership.

4. The petitioner invoked the arbitration clause while issuing notice under Section 21 on 08.10.2024. Clause 4 (a) of the agreement provides for

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arbitration, and the same is extracted as under:

> *"**4. ESCALATION IN MEMBERSHIP FEES***
>
> *a. The Parties agree that the Total Membership Fees payable by the Member Entity to 91sprlngboard may be increased annually, at the sole discretion of 91 springboard and shall be communicated to the Member Entity in writing, provided however that, (i) any uniform increase in the Membership Fees shall not be applicable to a Member Entity in its first six months of the Membership Plan. Accordingly, in case there is an increase in the Membership Fees in the initial six months of the Membership Plan, then such increased pricing shall be applicable to the Member Entity only with effect from the seventh month. However, six months price freeze window shall NOT be available in the scenario wherein expected uniform Membership Fee revision [Revised Membership Fee] is already announced by 91springboard and duly communicated to the Member Entity on the date of joining itself e.g. A Member Entity joins 91springboard during the month of December and on the date of joining a Revised Membership Fee plan effective 1st January in the month following, is already announced and communicated to the Member Entity, in that case, the Member Entity will be charged at existing rates of membership fee for the month of December and as per Revised Membership Fee plan effective 1st January in the following month. On the contrary, if there is a uniform decrease in the Membership Fees in the initial six months of the Membership Plan, then such decreased pricing shall be applicable to the Member Entity immediately, notwithstanding that the initial six months have not expired. ~Q any escalation in case of teams which have locked-in shall happen only after the period of lock-in is over, unless mutually decided by 91 springboard and respective member entity"*

5. The law with respect to the scope and standard of judicial scrutiny under Section 11(6) of the 1996 Act has been fairly well settled. This Court as well in the order dated 24.04.2025 in case of ARB.P. 145/2025 titled as ***Pradhaan Air Express Pvt Ltd v. Air Works India Engineering Pvt Ltd*** has extensively dealt with the scope of interference at the stage of Section 11. The Court held as under:-

> *"9. The law with respect to the scope and standard of judicial scrutiny under Section 11(6) of the 1996 Act has been fairly well settled. The Supreme Court in the case of **SBI General Insurance Co. Ltd. v. Krish***

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***Spinning*[1], *while considering all earlier pronouncements including the Constitutional Bench decision of seven judges in the case of* **Interplay between Arbitration Agreements under the Arbitration & Conciliation Act, 1996 & the Indian Stamp Act, 1899**, **In re** [2] *has held that scope of inquiry at the stage of appointment of an Arbitrator is limited to the extent of prima facie existence of the arbitration agreement and nothing else.*

10. It has unequivocally been held in paragraph no.114 in the case of ***SBI General Insurance Co. Ltd*** *that observations made in* ***Vidya Drolia v. Durga Trading Corpn.*[3],** *and adopted in* ***NTPC Ltd. v. SPML Infra Ltd.*,**[4] *that the jurisdiction of the referral court when dealing with the issue of "accord and satisfaction" under Section 11 extends to weeding out ex-facie non-arbitrable and frivolous disputes would not apply after the decision of* ***Re: Interplay***. *The abovenoted paragraph no.114 in the case of* ***SBI General Insurance Co. Ltd*** *reads as under:-*

> *"114. In view of the observations made by this Court in In Re: Interplay (supra), it is clear that the scope of enquiry at the stage of appointment of arbitrator is limited to the scrutiny of prima facie existence of the arbitration agreement, and nothing else. For this reason, we find it difficult to hold that the observations made in Vidya Drolia (supra) and adopted in NTPC v. SPML (supra) that the jurisdiction of the referral court when dealing with the issue of "accord and satisfaction" under Section 11 extends to weeding out ex-facie non-arbitrable and frivolous disputes would continue to apply despite the subsequent decision in In Re: Interplay (supra)."*

11. Ex-facie frivolity and dishonesty are the issues, which have been held to be within the scope of the Arbitral Tribunal which is equally capable of deciding upon the appreciation of evidence adduced by the parties. While considering the aforesaid pronouncements of the Supreme Court, the Supreme Court in the case of ***Goqii Technologies (P) Ltd. v. Sokrati Technologies (P) Ltd.*[5],** *however, has held that the referral Courts under Section 11 must not be misused by one party in order to force other parties to the arbitration agreement to participate in a time-consuming and costly arbitration process. Few instances have been delineated such as, the adjudication of a non-existent and malafide claim through arbitration. The Court, however, in order to balance the limited*

[1] 2024 SCC OnLine SC 1754
2 2023 SCC OnLine SC 1666.
[3] (2021) 2 SCC 1.
4 (2023) 9 SCC 385.
[5] (2025) 2 SCC 192

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scope of judicial interference of the referral Court with the interest of the parties who might be constrained to participate in the arbitration proceedings, has held that the Arbitral Tribunal eventually may direct that the costs of the arbitration shall be borne by the party which the Arbitral Tribunal finds to have abused the process of law and caused unnecessary harassment to the other parties to the arbitration.

12. It is thus seen that the Supreme Court has deferred the adjudication of aspects relating to frivolous, non-existent and malafide claims from the referral stage till the arbitration proceedings eventually come to an end. The relevant extracts of ***Goqii Technologies (P) Ltd.*** *reads as under:-*

> *“**20.** As observed in Krish Spg. [SBI General Insurance Co. Ltd. v. Krish Spg., (2024) 12 SCC 1 : 2024 SCC OnLine SC 1754 : 2024 INSC 532] , frivolity in litigation too is an aspect which the referral court should not decide at the stage of Section 11 as the arbitrator is equally, if not more, competent to adjudicate the same.*
>
> ***21.** Before we conclude, we must clarify that the limited jurisdiction of the referral courts under Section 11 must not be misused by parties in order to force other parties to the arbitration agreement to participate in a time consuming and costly arbitration process. This is possible in instances, including but not limited to, where the claimant canvasses the adjudication of non-existent and mala fide claims through arbitration.*
>
> ***22.** With a view to balance the limited scope of judicial interference of the referral courts with the interests of the parties who might be constrained to participate in the arbitration proceedings, the Arbitral Tribunal may direct that the costs of the arbitration shall be borne by the party which the Tribunal ultimately finds to have abused the process of law and caused unnecessary harassment to the other party to the arbitration. Having said that, it is clarified that the aforesaid is not to be construed as a determination of the merits of the matter before us, which the Arbitral Tribunal will rightfully be equipped to determine.”*

13. In view of the aforesaid, the scope at the stage of Section 11 proceedings is akin to the eye of the needle test and is limited to the extent of finding a prima facie existence of the arbitration agreement and nothing beyond it. The jurisdictional contours of the referral Court, as meticulously delineated under the 1996 Act and further crystallised

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through a consistent line of authoritative pronouncements by the Supreme Court, are unequivocally confined to a prima facie examination of the existence of an arbitration agreement. These boundaries are not merely procedural safeguards but fundamental to upholding the autonomy of the arbitral process. Any transgression beyond this limited judicial threshold would not only contravene the legislative intent enshrined in Section 8 and Section 11 of the 1996 Act but also risk undermining the sanctity and efficiency of arbitration as a preferred mode of dispute resolution. The referral Court must, therefore, exercise restraint and refrain from venturing into the merits of the dispute or adjudicating issues that fall squarely within the jurisdictional domain of the arbitral tribunal. It is thus seen that the scope of enquiry at the referral stage is conservative in nature. A similar view has also been expressed by the Supreme Court in the case of ***Ajay Madhusudan Patel v. Jyotrindra S. Patel***[6].

6. In view of the fact that disputes have arisen between the parties and there is an arbitration clause in the contract, this Court is inclined to appoint an Arbitrator to adjudicate upon the disputes between the parties.

7. Let the matter be referred to the Delhi International Arbitration Centre (DIAC) for appointment of the Arbitrator.

8. The arbitration would take place under the aegis of DIAC and would abide by its rules and regulations. The learned Arbitrator shall be entitled to fees as per the Schedule of Fees maintained by the DIAC.

9. The learned arbitrator is also requested to file the requisite disclosure under Section 12 (2) of the Act within a week of entering on reference.

10. The registry is directed to send a receipt of this order to the learned arbitrator through all permissible modes, including through e-mail.

11. All rights and contentions of the parties in relation to the claims/counter-claims are kept open, to be decided by the learned Arbitrator on their merits, in accordance with law.

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[6] (2025) 2 SCC 147.

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12. Needless to say, nothing in this order shall be construed as an expression of opinion of this Court on the merits of the controversy between the parties.

13. Let a copy of the said order be sent to the Arbitrator through electronic mode as well.

14. Petition stands disposed of.

PURUSHAINDRA KUMAR KAURAV, J

AUGUST 19, 2025/P/AMG

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