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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 4142/2026**

Date of decision: **14.05.2026**

IN THE MATTER OF

SWARN JYANTI CONSTRUCTIONS PVT LTDPetitioner

Through: Mr. Saurav Agrawal, Mr. Omar Ahmed, Ms. Aakanksha Kaul, Mr. Tushar Nair, Ms. Samayra Adlakha and Ms. Ashima Chopra, Advs.

versus

NIVI OVERSEAS LLPRespondent

Through: Mr. Gajinder Kumar, Ms. Kiran Jai, Mr. Chandra Shekhar and Ms. Somya, Advs.

CORAM:
HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

J U D G E M E N T

PURUSHAINDRA KUMAR KAURAV, J. (ORAL)

1. The present petition has been instituted under Articles 226/227 of the Constitution of India assailing the order dated 17.02.2026 passed by the Arbitral Tribunal [**"Tribunal"**], whereby the petitioner's application dated 12.02.2026 seeking permission to place on record additional documents along with a corresponding affidavit of evidence came to be rejected.
2. The facts of the present case would show that disputes arose between the parties in relation to certain business transactions allegedly undertaken



pursuant to a Memorandum of Understanding [“MOU”] dated 16.02.2019. Alleging non-payment of outstanding dues, the respondent invoked the provisions of the Micro, Small and Medium Enterprises Development Act, 2006 [“MSMED Act”] and initiated arbitral proceedings against the petitioner, before the Sole Arbitrator. During the course of proceedings, the petitioner filed its Statement of Defence as well as evidence by way of affidavit and the matter, thereafter, proceeded for recording of evidence.

3. At the stage when the petitioner’s evidence was being recorded, an application dated 12.02.2026 came to be preferred seeking permission to place on record certain additional documents along with an additional affidavit of evidence. The petitioner sought to contend that the said documents were necessary for proper adjudication of the disputes between the parties, particularly with regard to the nature of their commercial relationship, operation of bank accounts, exchange of communications and the MOU dated 16.02.2019 allegedly executed between the parties.

4. It is the petitioner’s case that the documents sought to be produced were either not within its possession at the relevant stage or could not be filed earlier on account of inadvertence and technical difficulties. The petitioner further submits that since the proceedings were still at the stage of evidence, no prejudice would have been caused to the respondent had the said documents been permitted to be taken on record. However, the Tribunal *vide* impugned order has rejected the aforesaid application.

5. Mr. Saurav Agrawal, learned counsel appearing on behalf of the petitioner, submits that the Tribunal *vide* order dated 14.12.2024 had permitted the respondent to place on record substantially similar documents and, therefore, rejection of the petitioner’s application seeking production of



additional documents results in a procedurally inconsistent approach being adopted towards the parties during the course of arbitral proceedings. It is further submitted that the additional documents sought to be produced are relevant for effective adjudication of the disputes and could have been permitted to be brought on record even at the stage of evidence.

6. Learned counsel further submits that procedural rules are intended to advance the cause of justice and not to obstruct adjudication on merits. In support of the aforesaid submission, reliance has been placed upon the provisions contained under Order VII Rule 14 and Order VIII Rule 1A of the Code of Civil Procedure, 1908, as well as the decisions in *Srei Infrastructure Finance Ltd. v. Tuff Drilling (P) Ltd.*¹, *Billa Jagan Mohan Reddy v. Billa Sanjeeva Reddy*² and *Nishant Hannan v. South Delhi Municipal Corporation*³.

7. It is further submitted that the additional documents sought to be produced are unimpeachable in nature and their authenticity is not susceptible to serious dispute. In order to substantiate the aforesaid submission, reliance has been placed upon the decision in *Zakir Hussain v. Sunshine Agrisystem (P) Ltd.*⁴ Attention of this Court has also been drawn to the *appendix* annexed along with the written submissions to indicate the nature and character of the documents sought to be brought on record.

8. Learned counsel appearing on behalf of the respondent has vehemently opposed the submissions and submits that the instant application is merely an attempt to protract the arbitral proceedings, which have

¹ (2018) 11 SCC 470

² (1994) 4 SCC 659

³ 2014 SCC OnLine Del 4053

⁴ 2023 SCC OnLine Del 6241



remained pending for more than three years. It is further submitted that the petitioner, at such a belated stage of the proceedings, cannot be permitted to introduce additional documents so as to reopen the evidentiary exercise. On the strength of the aforesaid submissions, learned counsel prays for dismissal of the present petition.

9. I have heard the counsels appearing on behalf of parties and perused the record.

10. On the perusal of material placed on record, it is discernible that by way of the instant writ petition, the petitioner essentially seeks to assail an interlocutory order passed during the pendency of arbitral proceedings. The short question, therefore, which arises for consideration is whether this Court ought to exercise its supervisory jurisdiction under Article 227 of the Constitution of India to interdict such an order at an intermediate stage of the arbitral proceedings.

11. At the outset, it may be observed that there is no absolute bar on the exercise of jurisdiction under Article 227 of the Constitution of India in matters arising out of arbitral proceedings. However, the scope of such interference is extremely limited and falls within a razor-thin compass. The said jurisdiction is required to be exercised sparingly, *ex debito justitiae*, and only in exceptional cases.

12. The legislative intent behind the enactment of the Act of 1996 clearly reflects that there ought to be minimal judicial interference in arbitral proceedings, save and except to the extent specifically contemplated under the statute itself. The aforesaid principle has been authoritatively expounded



by the Supreme Court in ***S.B.P. & Co. v. Patel Engineering Ltd. & Anr.***,⁵ wherein, in paragraph no. 46, the Court observed as under:

“46. The object of minimising judicial intervention while the matter is in the process of being arbitrated upon, will certainly be defeated if the High Court could be approached under Article 227 or under Article 226 of the Constitution against every order made by the Arbitral Tribunal. Therefore, it is necessary to indicate that once the arbitration has commenced in the Arbitral Tribunal, parties have to wait until the award is pronounced unless, of course, a right of appeal is available to them under Section 37 of the Act even at an earlier stage.”

13. Additionally, the Supreme Court, in the said case, also held that the scheme of the Act, 1996 does not provide any intermittent challenge to orders other than as per Section 37 of the Arbitration & Conciliation Act, 1996, [“**Act of 1996**”] the relevant paragraph is extracted as under:

“It is seen that some High Courts have proceeded on the basis that any order passed by an Arbitral Tribunal during arbitration, would be capable of being challenged under Article 226 or 227 of the Constitution. We see no warrant for such an approach. Section 37 makes certain orders of the Arbitral Tribunal appealable. Under Section 34, the aggrieved party has an avenue for ventilating its grievances against the award including any in-between orders that might have been passed by the Arbitral Tribunal acting under Section 16 of the Act. The party aggrieved by any order of the Arbitral Tribunal, unless has a right of appeal under Section 37 of the Act, has to wait until the award is passed by the Tribunal.”

The aforesaid principle has also been reiterated by the Supreme Court in ***Sterling Industries v. Jayprakash Associates Ltd.***⁶

14. In this regard, reference can also be made to the decision passed by this Court in the case of ***Surender Kumar Singhal & Ors. vs. Arun Kumar Bhalotia & Ors.***,⁷ where this Court has explained the following principles with respect to writ petitions challenging the orders passed by the Tribunal:

⁵ (2005) 8 SCC 618

⁶ (2021) 18 SCC 367

⁷ 2021 SCC OnLine Del 3708



- “(i) An arbitral tribunal is a tribunal against which a petition under Article 227 would be maintainable;*
(ii) The non-obstante clause in Section 5 of the Act does not apply in respect of exercise of powers under Article 227 which is a Constitutional provision;
(iii) For interference under Article 227, there have to be exceptional circumstances;
(iv) Though interference is permissible, unless the order is so perverse that it is patently lacking in inherent jurisdiction, the writ court would not interfere;
(v) Interference is permissible only if the order is completely perverse, i.e., the perversity must stare in the face;
(vi) High Courts ought to discourage litigation which necessarily interferes with the arbitral process.”

15. The aforesaid principles have also been approved by the Supreme Court in the case of **Serosoft Solutions Pvt. Ltd. vs. Dexter Capital Advisors Pvt. Ltd.**⁸ Regard must also be had to **Deep Industries Ltd. v. Oil and Natural Gas Corporation Ltd. & Anr.**,⁹ wherein, the Supreme Court held that High Courts must be extremely circumspect in interfering with orders passed under the Act, such interference being restricted to orders patently lacking in inherent jurisdiction.

16. Reference can also be made to the decision of this Court in **Nidhi Arya Through Special Power of Attorney Holder Shri Ramesh Dalal v. OYO Hotels and Homes Pvt. Ltd. & Ors.**¹⁰ The petitioner, therein, had assailed an order passed by the Tribunal, whereby, an application for impleadment of parties in the arbitral proceedings had been rejected. The Court, while declining interference, reiterated the aforesaid principles. The said decision was carried to the Supreme Court by way of a Special Leave

⁸ 2025 INSC 26

⁹ (2020) 15 SCC 706

¹⁰ 2026 SCC OnLine Del 1066



Petition, which came to be dismissed in *limine*.¹¹

17. This Court in **Groson Engineers v. M/s Rajiv Aggarwal & Anr.**,¹² dealt with a case where the petitioner had sought to assail an order passed by the Tribunal rejecting an application seeking permission to lead additional evidence by examining an additional witness. While declining interference with the said order, this Court held as under:-

“5. ...Even otherwise, the jurisdiction of this Court under Article 227 of the Constitution of India against an interlocutory order passed by the Arbitral Tribunal ought to be minimal. It is only orders which evince, on their face, palpable illegality or a nonapplication of mind, which are required to be interfered with. It must not be lost sight of, that arbitration is a private adjudicatory system, chosen by the parties themselves. Words, must not be minced, parties voluntarily chose the method of arbitration to opt out of the conventional court mechanism; the traditional litigation-mechanism ought not to be brought back, by entertaining, casually, writs against interlocutory orders passed by the Arbitral Tribunal.

6. Considering the facts and circumstances of the case, and the discussion above, the Court does not find any reason to interdict the said Order. The petitioner shall, however, be at liberty to agitate its grievance at the stage of Section 34 of the Arbitration and Conciliation Act, 1996, if such a stage at all arises.

7. With the aforesaid observations, the instant petition stands disposed of.”

18. In view thereof, the writ Court has to exercise the power under Article 226/227 of the Constitution of India with utmost circumspection and within a narrowly confined sphere of interference.

19. A perusal of the impugned order dated 17.02.2026 would show that the application dated 12.02.2026 came to be preferred after conclusion of the respondent-claimant's evidence on 29.01.2026. The arbitral proceedings were, thereafter, fixed for 12.02.2026 and 17.02.2026 for production of the petitioner's witness for cross-examination and it was at that stage that the

¹¹ SLP (C) 12882/2026, Order dt. 20.04.2026

¹² W.P. (C) 17470/2025, Order dt. 27.01.2026.



instant application came to be filed.

20. The nature of the documents sought to be additionally produced, as reflected from the *appendix* annexed along with the written submissions, would indicate that the said documents were already in existence much prior to filing of the application dated 12.02.2026.

21. Even the Tribunal, while dismissing the petitioner's application, observed that the documents sought to be produced were already available with the petitioner at the stage of filing of pleadings and evidence by way of affidavit. It also stated that permitting such documents to be brought on record at a belated stage would *de novo* the proceedings from the initial stage of trial and unnecessarily prolongs the arbitral proceedings. The Tribunal accordingly concluded that the application appeared to have been preferred with a view to improve the petitioner's case and proceeded to reject the same.

22. This Court ordinarily does not interfere with interlocutory orders passed by the tribunal unless the same are shown to be palpably erroneous or wholly unsustainable in law. In the instant case, when the documents sought to be brought on record were already available with the petitioner, no satisfactory explanation has been furnished as to why the same were not produced at the appropriate stage for adjudication of the *lis* pending before the Tribunal.

23. Considering the facts and circumstances of the present case, as also the discussion hereinabove, this Court does not find any ground warranting interference with the impugned order.

24. In any case, if an arbitral award is ultimately passed and the same is adverse to the interest of the petitioner, the petitioner would be well within



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his rights and remedies to approach the Court of competent jurisdiction and under Section 34 of the Act of 1996.

25. In view of the aforesaid discussion, and in the absence of any exceptional circumstance warranting exercise of supervisory jurisdiction under Article 227 of the Constitution of India, the writ petition is dismissed.

PURUSHAINdra KUMAR KAURAV, J

MAY 14, 2026/p

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