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

+ O.M.P. (MISC.) 8/2026 & I.A. 10988/2026

MRS DR MANJU NIMESH & ANR.

.....Petitioners

Through: Mr. C.S. Gupta, Adv.

versus

MR AJAY KUMAR NAYYAR

.....Respondent

Through: Mr. Abhishek Paruthi, Adv.

CORAM:

HON'BLE MR. JUSTICE AVNEESH JHINGAN

ORDER

22.04.2026

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1. This application/petition is filed under Section 29A (4) and (5) of the Arbitration and Conciliation Act, 1996 (for short, 'the Act') seeking further extension of six months of the mandate of learned sole arbitrator.
2. The brief facts are that the parties to the *lis* entered into an agreement to sell dated 25.09.2019. The agreement provided for dispute resolution through arbitration. On failure of the respondent to execute the sale deed, the arbitration proceedings were initiated at the instance of the petitioner. This court vide order dated 17.08.2021, appointed the sole arbitrator. On 07.02.2024, an application under Section 29A (4) of the Act was allowed by this court extending the mandate of the tribunal till 21.12.2024. The mandate was extended on 16.01.2025 and thereafter on 09.10.2025. The present application was filed seeking extension of the mandate by six months till 30.09.2026.



3. Learned counsel for the applicant on a specific query from the court fairly contends that the amount involved is less than rupees two crores and submits that despite the decision of the Supreme Court in **Jagdeep Chowgule Vs Sheela Chowgule and Others**, 2026 INSC 92 since the earlier applications under Section 29A of the Act were entertained by this court the mandate be extended by this Court in view of Section 42 of the Act.

4. Before proceeding further, it would be relevant to reproduce the following provisions where the original jurisdiction of this court is rupees two crores and above.

5. Section 2 of the Amendment Act and Section 5(2) of the Delhi High Court Act, 1966 are reproduced below:

“The Delhi High Court (Amendment) Act, 2015 No. 23 of 2015

2. In sub-section (2) of section 5 of the Delhi High Court Act, 1966, for the words “rupees twenty lakhs”, the words “rupees two crore” shall be substituted.”

“The Delhi High Court Act, 1966

5. Jurisdiction of High Court of Delhi.—

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(2) Notwithstanding anything contained in any law for the time being in force, the High Court of Delhi shall also have in respect of the said territories ordinary original civil jurisdiction in every suit the value of which exceeds [rupees two crore].”

6. The contention of the learned counsel for the applicant lacks merit.

7. The Supreme Court after considering a reference arising from conflicting views of different high courts as to which court can extend the mandate of the arbitral tribunal and after analysing the provisions of the Act



including Section 42 held that since the high court has made the appointment of arbitrator under Section 11(6) of the Act it shall not make it a court of first instance for the purposes of Section 42 of the Act. The decision of the high Court setting aside the decision of the commercial court extending the mandate was set aside and the parties were granted liberty to approach the commercial court for further extension if the need so arises. Reliance was placed on the decision of the constitution bench in **State of Jharkhand & Ors. Vs. Hindustan Construction Co. Ltd.**, 2018 2 SCC 602. The following paragraphs are quoted below:

“20. For the reasons stated above, we are of the opinion that the conclusion on the ground that there will be hierarchical difficulties, conflict of power or jurisdictional anomaly if a Civil Court entertains application under Section 29A for extension of time of an arbitral tribunal if the High Court under Section 11(6) of the Act has appointed the arbitrator(s) is untenable. This approach is hereby rejected.

26. It may be argued that since application under Section 11(6) for appointment is filed before High Court, all successive applications, including the one under Section 29A(4) must be made to such High Court. We need not labour on this issue as a Constitution Bench of this Court in *State of Jharkhand v. Hindustan Construction Co.*³⁷ affirming the decision in *Associated Contracts* (Supra) has held that, solely because a superior Court appoints the arbitrator, or issues directions or has retained some control over the arbitrator, it cannot be regarded as a ‘Court’ of first instance for purposes of Section 42. In *Associated Contracts* (Supra) this Court opined:

“13. It will be noticed that whereas the earlier definition contained in the 1940 Act spoke of any civil court, the definition in the 1996 Act fixes “court” to be the Principal Civil Court of Original Jurisdiction in a district or the High Court in exercise of its ordinary original civil jurisdiction.



Section 2(1)(e) further goes on to say that a court would not include any civil court of a grade inferior to such Principal Civil Court, or a Small Cause Court.

14. It will be noticed that the definition is an exhaustive one as it uses the expression “means and includes”. It is settled law that such definitions are meant to be exhaustive in nature—see P. Kasilingam v. P.S.G. College of Technology [1995 Supp (2) SCC 348].

16. Similar is the position with regard to applications made under Section 11 of the Arbitration Act. In Rodemadan India Ltd. v. International Trade Expo Centre Ltd. [(2006) 11 SCC 651], a Designated Judge of this Hon'ble Court following the seven-Judge Bench in SBP and Co. v. Patel Engg. Ltd. [(2005) 8 SCC 618], held that instead of the court, the power to appoint arbitrators contained in Section 11 is conferred on the Chief Justice or his delegate....

It is obvious that Section 11 applications are not to be moved before the “court” as defined but before the Chief Justice either of the High Court or of the Supreme Court, as the case may be, or their delegates. This is despite the fact that the Chief Justice or his delegate have now to decide judicially and not administratively. Again, Section 42 would not apply to applications made before the Chief Justice or his delegate for the simple reason that the Chief Justice or his delegate is not “court” as defined by Section 2(1)(e). The said view was reiterated somewhat differently in Pandey & Co. Builders (P) Ltd. v. State of Bihar [(2007) 1 SCC 467].”

27. In view of the above, we allow the appeals, set aside the reference of the Division Bench in Writ Petition No. 88 of 2024 dated 07.08.2024 and the subsequent judgment and order of the Single Judge of the High Court in Writ Petition No. 88 of 2024 dated 21.08.2024 and restore the judgment of the Commercial Court in Civil Miscellaneous Application No. 20/2023/A dated 02.01.2024. Parties are at liberty to move the Commercial Court for further extension under Section 29A(5) for exercising Court's power under Section 29A(4). The Court



shall consider the application, hear the parties and pass appropriate orders.”

8. The earlier applications allowed by this court under Section 29A of the Act are of no avail for entertaining the present application under Section 29A of the Act. The extensions granted by this court were prior to the decision of the Supreme Court when divergent views of different high courts prevailed with regard to the entertainment of applications under Section 29A of the Act.

9. In view of the settled position of law, this court has no pecuniary jurisdiction to entertain an application under 29A (4) and (5) of the Act in matters involving less than rupees two crores.

10. The application is dismissed.

11. Needless to say the applicant shall be at liberty to approach the appropriate court with a prayer for extension of the mandate of the arbitrator.

AVNEESH JHINGAN, J

APRIL 22, 2026/Pa