



2026:DHC:4066



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI****Date of decision: 06.05.2026**

+ O.M.P.(I) (COMM.) 188/2026 & I.A. 12319/2026 (Stay)

MR. PRADEEP DASS

.....Petitioner

Through: Mr. Darpan Wadhwa, Senior Advocate along with Mr. Shlok Chandra, Mr. Amer Vaid, Ms. Divita Vyas, Mr. Parikshit Singh Bhati and Ms. Lolita Crasta, Advocates.

versus

SPLENDOR LANDBASE LIMITED & ORS.Respondents

Through: Mr. Dayan Krishnan, Senior Advocate along with Mr. Saurabh Seth, Mr. Sukrit Seth, Ms. Neelampreet Kaur, Mr. Abhiroop Rathore and Mr. Sukhvir Singh, Advocates. Mr. Siddharth Bhatli, Mr. Jayant Aggarwal, Mr. Md. Hussain and Ms. Pratibha Mishra, Advocates for Amritsar Sky Builders.

CORAM:
HON'BLE MR. JUSTICE HARISH VAIDYANATHAN SHANKAR

% **JUDGMENT (ORAL)**

1. The present Petition has been instituted under Section 9 of the **Arbitration and Conciliation Act, 1996¹**, seeking the following reliefs:

¹ Act



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“

a) Grant interim orders and/or direction in favour of the Petitioner and against the Respondents and thereby restraining the Respondent No.1, its agents, employees or any third party from creating any third-party rights, alienating, transferring, encumbering, or parting with possession of the Units Nos. 601-611, 612-625, 701-711 and 711-725 in the Project Splendor Epitome, Sector-62, Gurugram;

b) Direct the Respondent to deposit with the Registrar General of this Hon'ble Court the total sum of Rs. 17,42,80,291 (Indian Rupees Seventeen Crore Forty Two Lakh Eighty Thousand Two Hundred Ninety One Only), being the assured rentals/compensation payable to the Petitioner by the Respondent till 31.01.2026;

c) Grant any other interim relief deemed just and proper in the facts and circumstances of the case.”

2. Learned Senior Counsel appearing on behalf of the Petitioner submits that the present Petition has been necessitated on account of the conduct of the Respondents in seeking to terminate the allotment and the contractual arrangements between the parties immediately upon the institution of the present proceedings, as a counterblast to the notice issued under Section 9 of the Act by the Petitioner. He submits that the said notice under Section 9 was admittedly served upon the Respondents on 27.04.2026, and the impugned termination letter came to be issued immediately thereafter on 28.04.2026.

3. He further submits that in terms of Clause 7.10 of the Agreement for Sale dated 26.03.2019, the Respondents are entitled to terminate the Agreement only upon occurrence of the contingencies as expressly stipulated under 7.10.1 thereof. The said clause 7.10.1 reads as follows:

“7.10 Events of Defaults by the Allottee and Termination of Agreement

7.10.1 The occurrence, happening or existence of any of following events shall be considered as “Allottee’s Event of Default”:-

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(i) The Allottee fails to make payments for 2 (two) consecutive demands made by the Company as per the Schedule of Payments as annexed alongwith this Agreement, despite notice being sent by the Company for such demand;

(ii) The Allottee fails to make payments towards any additional charges as may be required to be paid by the Allottee as per the present Agreement and/or as per Applicable Law despite notice being sent by the Company for such payment.”

4. Learned Senior Counsel appearing on behalf of the Petitioner submits that neither the contractual trigger contemplated under Clause 7.10.1 nor the mandatory contractual procedure contemplated under Clause 7.10.2 has been complied with prior to issuance of the impugned termination letter.

5. He further submits that the conditions precedent stipulated under the respective Second Supplemental Agreements were never fulfilled and consequently the said agreements never became operative. According to the Petitioner, the parties therefore continue to remain governed by the earlier Supplemental Agreements.

6. He further contends that post the amendments to the Specific Relief Act, 1963, enforcement of contractual rights concerning immovable property has assumed greater significance and the traditional approach that damages would constitute an adequate remedy in every such case no longer holds absolute application.

7. In support of his submissions, Ld. senior counsel places reliance upon the judgment of this Court in ***Rahul Bhargava v. Neo Developers (P) Ltd.***², which read as under:-

“28. In the present matter, the interim measures sought before the Commercial Courts were confined to preservation of the allotted

² 2025 SCC OnLine Del 9567



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commercial units, restraint on coercive actions such as cancellation of allotment or creation of third-party rights, and protection against enforcement of disputed and unexplained demands raised subsequent to HARERA's Orders. These reliefs are ancillary in nature and are designed to ensure that the arbitral proceedings, once initiated, are not rendered in vain or illusory.

36. In disputes involving immovable property, particularly in the real estate sector, the need for interim protection assumes heightened significance. Property, once alienated, encumbered or subjected to third-party rights, may become impossible to restore to its original position. The law, therefore, recognises that preservation of the same is central to ensuring that the final adjudication, whether by an arbitral tribunal or a statutory authority, remains effective and enforceable.”

8. Reliance is also placed upon the judgment of this Court in ***DLF Home Developers Limited v. Shipra Estate Limited***³, which reads as under:-

“77. The explanation to Section 10 of the Specific Relief Act, 1963, prior to its substitution by virtue of the Specific Relief (Amendment) Act, 2018 provided for a statutory assumption that a breach of contract to transfer immovable property cannot be adequately relieved by compensation in money. This is based on the traditional common law assumption that no two pieces of land are alike.”

9. He further submits that the allotment letters now sought to be relied upon by the Respondents are all dated 30.04.2026, i.e., immediately subsequent to the issuance of the Impugned Termination letter.

10. It is further contended that the said allotments are themselves provisional in nature and that, despite the units being valued at approximately INR 7,00,00,000/-, only nominal/token amounts aggregating to approximately INR 35,00,000/- are stated to have been paid in respect thereof. Learned Senior Counsel submits that a similar

³ 2021 SCC OnLine Del 4902



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pattern is reflected across all four allotment letters. He, therefore, contends that these transactions are a mere sham, purportedly created only with a view to defeat and frustrate the rights of the Petitioner.

11. **Per contra**, learned Senior Counsel appearing on behalf of the Respondents opposes the grant of any interim relief and submits that once the Agreements in question stand terminated, the same cannot be specifically enforced in proceedings under Section 9 of the Act. It is contended that the remedy, if any, available to the Petitioner would be one in damages alone, and not restoration or continuation of contractual relations. Learned Senior Counsel submits that the law in this regard is well settled and consistently holds that a determinable contract cannot be indirectly enforced by way of interim measures under Section 9 of the Act.

12. Learned Senior Counsel further submits that the termination was justified and effected strictly in terms of Clause 7.1 of the Agreement for Sale, which confers a contractual right upon the Respondents to terminate the arrangement in the event of occurrence of force majeure circumstances. In support of the aforesaid submissions, reliance is placed upon the judgments of the Hon'ble Supreme Court in ***K.S. Manjunath v. Moorasavirappa***⁴ as well as the decisions of this Court in ***JLT Energy SAS v. Hindustan Cleanenergy Ltd.***⁵ and ***Bharat Catering Corpn. v. Indian Railway Catering & Tourism Corp. Ltd.***⁶, to contend that a terminated contract cannot ordinarily be revived or specifically enforced in proceedings under Section 9 of the Act. Clause 7.1 of the Agreement reads as

⁴ 2025 SCC OnLine SC 2378.

⁵ 2026 SCC OnLine Del 1661

⁶ 2009 SCC OnLine Del 1613.



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under:

“7.1 Subject to the Allottee abiding by all the terms and conditions under this Agreement including but not limited to timely payment of all installments in terms of the Schedule of Payments as well as other charges, levies etc. as provided for in this Agreement, the Company shall complete the commencement of construction of the Said Tower in which the Said Unit is situated within a period of 42 (fourty two months) with a grace period of 6 (six) months from the execution of this Agreement. If however the completion of the Said Unit and/or the Said Complex is delayed due to force majeure conditions, then the Allottee agrees that the Company shall be entitled to extension of time of delivery of possession of the Said Unit to the extent that the force majeure conditions ceases. The Company upon completion of the construction of the Said Complex shall apply for Occupancy Certificate of Said Complex with the competent authority while it shall initiate finishing activities with respect to the said Tower. The obligation of the Company for completion shall be deemed to have been achieved upon the Company applying for Occupancy Certificate for the said Complex (Completion Time).

The Allottee agrees and confirms that in the event it becomes impossible of the Company to complete the said Tower within which the Said Unit is situated or the Said Complex, within the time frame stipulated in this agreement, due to force majeure conditions, then the Company shall be entitled to terminate the present Agreement and refund to the Allottee the entire amount received by the Company (other than payments to third parties such as Pass Through Charges, brokerage, etc.), within such time period as defined in the Act or Rules from the date of termination, without any interest. After refund of money to the Allottee, the Allottee agrees that he/she shall not have any rights, claims, etc. against the Company and/or the Said Unit and/or the Said Complex and the Company shall be released and discharged from all its obligations and liabilities under this Agreement. It is specifically agreed and understood that time taken by the competent authority in granting Occupation Certificate after application of Occupation Certificate shall not be deemed delay on the part of the Company.”

13. In particular, reliance has been placed upon Para 46 of the judgment in ***JLT Energy (supra)***, which reads as under:-

“46. Where, upon a prima facie examination of the contractual framework and the material placed on record, the Court arrives at the conclusion that the underlying agreement has ceased to subsist, the jurisdiction under Section 9 cannot be invoked to grant interim relief so as to resurrect or revive a terminated contract. Grant of

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interim protection in such circumstances would amount to granting final relief in the guise of an interim measure and would run contrary to the settled principles governing Section 9.”

14. Reliance has also been placed upon Para 5 of the judgment in ***Bharat Catering (supra)***, which reads as under:-

“5. Be that as it may, the scope and ambit of Section 9 is not to restore the contract which has already been terminated. The contract between the respondent and the petitioner created a commercial relationship between the parties. The termination of contract is one of the facets of the contract and as per contract entered into between the parties, the contract could be terminated by respondent for various reasons given therein. If the petitioner is aggrieved by the act of the termination of the contract by respondent and considers that the termination was bad or illegal, the petitioner is at liberty to invoke the arbitration clause and claim damages, if any, suffered by the petitioner.”

ANALYSIS

15. This Court has heard learned Senior Counsels appearing on behalf of the parties and, with their able assistance, perused the material placed on record.

16. At the outset, this Court is of the considered view that the contemporary judicial approach in matters concerning commercial contracts is to give full effect to the terms consciously agreed upon between the parties. Equally, clauses relating to termination are required to be construed in a manner consistent with the contractual intent and the surrounding commercial framework. There can be no inflexible or straitjacket proposition of law to the effect that, upon termination of a contract, the aggrieved party is necessarily relegated only to a claim for damages and can never seek protective relief. The said position stands consistently recognized in a catena of decisions, including the Judgment of the Hon’ble Supreme Court in ***K.S. Manjunath (supra)***.

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17. *Prima facie*, in the present case, the sequence of events assume significance. The present Petition under Section 9 of the Act was admittedly served upon the Respondents on **27.04.2026**, and the Impugned Termination letter came to be issued immediately thereafter on **28.04.2026**. At this stage, the chronology of events lends *prima facie* credence to the contention of the Petitioner that the impugned action was retaliatory in nature and intended to defeat the contractual rights asserted by the Petitioner.

18. This Court also takes note of the fact that the purported third-party allotments are stated to have been issued immediately after the impugned Termination and upon receipt of only nominal/token amounts in respect of units stated to be valued at several crores of rupees. *Prima facie*, in the considered view of this Court, such transactions do not inspire confidence as *bona fide* commercial dealings undertaken in the ordinary course of business.

19. This Court further finds substance in the contention advanced on behalf of the Petitioner that the right of termination could arise only upon occurrence of the contingencies specifically contemplated under Clause 7.10.1 of the Agreements. *Prima facie*, no such contingency appears to have been demonstrated from the material presently placed on record.

20. This Court also takes note of the submission advanced on behalf of the Petitioner that no demand notice, as contemplated under Clause 7.10.1, has been issued since the year 2019. Further, the contractual mechanism envisaged under Clause 7.10.2, requiring issuance of notice and continuation of default for a stipulated period of 90 days, also does not appear to have been complied with prior to issuance of



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the impugned termination letter.

21. This Court is also unable, at this stage, to accept the plea of *force majeure* sought to be urged on behalf of the Respondents. The alleged *force majeure* circumstance traces back to the COVID-19 period commencing in the year 2020. However, it is an admitted position that the contractual relationship between the parties continued thereafter, including the execution of the Second Supplemental Agreements in February, 2024 and issuance of transfer certificates dated **31.03.2025**. The Respondents, having continued to act under the contractual framework long after the alleged *force majeure* event, cannot now seek to invoke the same as a ground for termination in the year 2026. *Prima facie*, therefore, the said contention appears unsustainable. Paragraph 21 of the impugned termination letter is extracted hereinbelow for ready reference:

“Further, the Agreement dated 26.03.2019 and other agreements as stated in Para 1-3 above itself defines Force Majeure to include events beyond the control of the Developer/SLL. Read conjointly with the relevant termination clauses including Clause 7.1 and allied provisions, our Client is contractually entitled, in circumstances rendering completion impossible or commercially frustrated, to terminate the arrangement and refund the amounts received.”

22. The Court is of the view that the parties had admittedly entered into a Second Supplemental Agreement subsequent to the onset of the alleged force majeure circumstances, whereby the timelines stood extended. *Prima facie*, the subsequent conduct of the parties is itself inconsistent with the Respondents’ present stand.

23. In view of the aforesaid, this Court is of the considered opinion that interim protection is warranted in favour of the Petitioner. The Petitioner has succeeded, at this stage, in establishing a *prima facie*

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case. The balance of convenience also tilts in favour of the Petitioner, and irreparable prejudice would ensue in the event third-party rights are permitted to be created in respect of the subject units pending adjudication.

24. Consequently, the impugned Termination letter shall remain stayed pending further orders. The consequential allotments purportedly made to third parties pursuant thereto shall also not be given effect to during the pendency of the present proceedings. *Prima facie*, the said “consequential allotments” appear to constitute a device to further what presently appears to be a mala fide termination of the allotments in question, and therefore no further effect shall be accorded thereto at this stage.

25. On the last date of hearing, this Court had directed the subsequent allottee namely M/s Amrit Skyline Builders be informed about today’s hearing. Consequently, Mr. Siddharth Bhatli, Advocate appears on behalf of the said allottee.

26. Material on record indicates that the Agreement for Sale dated 26.03.2019 contemplated arbitration between the Petitioner and the Respondent, containing arbitration clause being clause 24, which reads as under:

“24. DISPUTE RESOLUTION

In case the Parties are unable to settle their disputes within 15 (fifteen) days of intimation of any dispute by either Party, then all or any disputes arising out of or touching upon or in relation to the terms and conditions of this Agreement including the interpretation and validity of the terms thereof and respective rights and obligations of the parties shall be settled through the Adjudicating Officer appointed under this Act and Rules to the extent as provided for in the Au and Rules. All other disputes if any between the parties shall be referred to arbitration before a Sole Arbitrator to be appointed by the Chairman of the Company. The proceedings

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of arbitration shall be governed by the Arbitration and Conciliation Act, 1996. The proceedings of arbitration shall be in English. The venue/seat of arbitration shall be Delhi only. The cost of arbitration shall be borne by the parties equally.”

27. At this stage, since the parties have mutually consented to the adjudication of their disputes by way of Arbitration, this Court is of the view that the commencement of arbitral proceedings to adjudicate the disputes between the parties should not be unduly delayed.

28. Accordingly, in the peculiar facts of the present case, along with the consent of the parties, the requirement of a separate notice under Section 21 of the Act and initiation of separate proceedings under Section 11 of the Act are dispensed with.

29. In view thereof, this Court is of the view that the matter may be referred to arbitration by a Sole Arbitrator for the purpose of the adjudication of the disputes between the parties.

30. Learned counsel appearing on behalf of the parties submits that the value of the underlying disputes is approximately Rs. 50 Crores/-.

31. Accordingly, this Court appoints **Hon’ble Mr. Justice Rajesh Bindal (Retd.), Former Judge of Hon’ble Supreme Court,** [REDACTED] as the learned Sole Arbitrator to adjudicate the disputes *inter se* the parties.

32. The learned Sole Arbitrator may proceed with the arbitration proceedings, subject to furnishing to the parties the requisite disclosures as required under Section 12(2) of the Act within one (01) week of entering the reference.

33. The Registry is directed to forward a copy of this Order to the learned Arbitrator through all permissible modes, including electronic mode.

34. The learned Arbitrator shall be entitled to a fee in accordance as

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may be agreed between the parties and the learned Arbitrator.

35. All rights and contentions of the parties are kept open, to be decided by the learned Sole Arbitrator on merits, in accordance with law.

36. Accordingly, the present Petition under Section 9 of the Act shall be treated as an Application under Section 17 of the Act, and appropriate directions may be passed by the learned Arbitrator upon entering reference.

37. The learned Sole Arbitrator is requested to consider the said application under Section 17 of the Act as expeditiously as possible.

38. Needless to state, nothing in this Order shall be construed as an expression of opinion of this Court on the merits of the controversy.

39. Accordingly, the present Petition, along with pending application(s), if any, stands disposed of in the aforesaid terms.

HARISH VAIDYANATHAN SHANKAR, J.

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