



2026:DHC:4234



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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI****Date of Decision: 13.05.2026**

+ ARB. A. (COMM.) 38/2026, I.A. 13296/2026 (Stay), I.A. 13297/2026 (EX.), I.A. 13298/2026 (EX. From filing certified copy of the impugned order) & I.A. 13299/2026 (Seeking permission to file beyond five pages in synopsis and list of dates)

**M/S RED BRICKS DEVELOPERS**

.....Petitioner

Through: Mr. Rakesh Malhotra, Mr.  
Bharat Malhotra and Mr.  
Kushal Malhotra, Advocates.

versus

**M/S ARVITIS BISTRO PRIVATE LIMITED**

.....Respondent

Through: Mr. Aaditya Vijaykumar, Ms.  
Akshita Katoch, Ms. Namrata  
Mohapatra and Mr. Adarsh  
Nair, Advocates.

**CORAM:****HON'BLE MR. JUSTICE HARISH VAIDYANATHAN  
SHANKAR**

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**JUDGEMENT (ORAL)**

1. The present Petition has been filed under Section 37 of the Arbitration and Conciliation Act, 1996, challenging the **Order dated 06.05.2026<sup>1</sup>** passed by the learned Sole Arbitrator, more particularly the directions contained in Sub-Para 8(b) of Paragraph 6 thereof. By way of the said directions, the learned Arbitrator has directed as follows:

“6. After further submissions of the parties, the Tribunal is now confirming the order dictated yesterday with some variations as can

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<sup>1</sup> Impugned Order



2026:DHC:4234



be noted from below:

"1. ....

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8. Secondly, as far as the items on the ground floor and the 1st floor are concerned, there is a dispute as to the ownership of these items. In this regard, the following directions are being passed:-

(a) .....

(b) As far as items on the ground floor are concerned, the first LC report has categorically ascertained the items left behind by the Petitioner/Claimant. It is the argument of the Ld. Counsel for the Respondent that the said categorization is not correct as LC has no means to ascertain the ownership. However, this argument does not convince this Tribunal as Respondent has signed the said LC report and has at no stage challenged these findings until 4PM today. Respondent has filed an application challenging the LC report which has been dealt and disposed of in the preceding paragraphs. Accordingly, Respondent is directed to bear the expenses for removal and transportation of items, mentioned in para 43 of the 3rd LC report i.e. Sr. No. 1 to 3, Sr. No. 76 und 92 other than the liquor bottles and the Gen Set at Sl. No. 84 for which Respondent wishes to make an offer for its purchase, from the subject premises and deliver them at its own cost to the Claimant within three working days. For the remaining items, the Respondent is willing to pay the current depreciated value and retain the same, however, since this Tribunal has already taken a prima facie view with respect to the ownership of these items, it is not possible to accept the proposal of the Respondent unless the same is acceptable to the Claimant. When the said offer was put to the Claimant, the Ld. Counsel on instructions states that the same is not acceptable and this offer was only agreed with respect to the Gen Set being valued properly. Accordingly, the Claimant shall within seven working days provide the list price of these equipment supported by the invoices and on the receipt of the same, Respondent shall be liable to pay the said amount within two weeks from the receipt of the documents (List price/invoices) from the Claimant. As far as Cash in tin box and Cash in Cashier is concerned i.e. Sr. No. 95 & 96, the said amount can be released to the Claimant without prejudice to the rights and contentions of the Respondent to make any appropriate claim for any or all of the items being removed or retained on payment basis. Lastly, as far as Sr. No. 88 is concerned, Ld. Counsel for the parties are at agreement that the said item is not owned by either of them and thus the Claimant does not

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ARB. A. (COMM.) 38/2026

Page 2 of 6



2026:DHC:4234



*press for its return. In case, these directions are not complied with by the respective parties, the affected party is permitted to move to the contempt court without seeking any further directions/reference in that regard.”*

*....”*

2. Learned counsel appearing on behalf of the Petitioner has confined the present challenge to a limited aspect of the aforesaid directions, *namely*, the directions permitting the Respondent to remove and transport the items referred to in the extracted paragraph.

3. According to the Petitioner, the aforesaid directions are fundamentally inconsistent with, and contrary to, the express caveat recorded by the learned Arbitrator himself in the earlier portion of the Impugned Order, *namely*, Paragraph 4(i), wherein the learned Arbitrator had specifically clarified that no conclusive determination regarding ownership of the equipment was being made. The said portion reads as under:

“4. This Tribunal is of the view that the said application can be disposed of today without the need for any further pleadings from the Claimant as the record will speak for itself. Accordingly, the said application is being dismissed for the reasons below:-

- (i) .....  
 ..... It is further being made clear that this order shall not mean to have established the ownership of the Claimant over this equipment but is an indicator of a prima facie view of the Tribunal in terms of the Ld. LC Report.”

*(emphasis supplied)*

4. Learned counsel for the Petitioner submits that once the learned Arbitrator himself expressly clarified that the observations contained in the Impugned Order do not amount to a conclusive determination regarding ownership of the equipment and are merely reflective of a *prima facie* view based on the Local Commissioner’s Report, the learned Arbitrator could not thereafter proceed to pass directions

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ARB. A. (COMM.) 38/2026

Page 3 of 6



2026:DHC:4234



which, in substance and effect, operate as a final adjudication of ownership rights over the disputed goods.

5. It is contended by the Petitioner that the directions permitting removal, delivery, retention upon payment, and release of the items effectively amount to recognising proprietary rights in favour of the Respondent herein, despite the learned Arbitrator specifically recording that the issue of ownership had not been conclusively adjudicated.

6. Since the challenge raised in the present Petition is narrowly circumscribed and turns entirely upon the contents, reasoning, and operative directions contained in the Impugned Order itself, this Court did not consider it necessary to call for a formal reply from the Respondent.

7. Learned counsel appearing on behalf of the Respondent, however, has advanced elaborate submissions in support of the Impugned Order and has sought to justify the directions issued by the learned Arbitrator.

### **ANALYSIS & DECISION:**

8. This Court has heard the learned counsel appearing on behalf of the parties at considerable length and has carefully perused the material placed on record as well as the documents and submissions referred to during the course of arguments.

9. This Court is of the considered view that once the learned Arbitrator himself expressly caveated the Impugned Order in the manner recorded in Paragraph 4(i) thereof, *namely*, by clarifying that the observations made therein were not to be construed as a conclusive determination of ownership of the equipment and merely reflected a

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ARB. A. (COMM.) 38/2026

Page 4 of 6



2026:DHC:4234



*prima facie* view based on the Local Commissioner's Report, the learned Arbitrator could not thereafter proceed to issue further operative directions contained in Sub-Para 8(b) of Paragraph 6 of the Impugned Order permitting the Respondent to remove, transport, retain, or otherwise deal with the said goods on the basis of such *prima facie* observations.

10. In the considered opinion of this Court, the directions so issued would, in effect, amount to a determination regarding entitlement to and ownership of the goods in question. Such directions necessarily proceed on the assumption that one of the parties possesses a superior proprietary right over the disputed items. Consequently, the said directions cannot be treated as merely procedural or interim in nature, particularly when their implementation would directly affect possession, control, and beneficial enjoyment of the goods forming the subject matter of dispute.

11. In the absence of any conclusive adjudication by the learned Arbitrator on the issue of ownership of the goods, this Court is of the view that the directions contained in Sub-Para 8(b) of Paragraph 6 of the Impugned Order could not have been issued in the manner they presently stand. Accordingly, the aforesaid directions contained in Sub-Para 8(b) of Paragraph 6 of the Impugned Order are set aside.

12. However, this Court clarifies that it has expressed no opinion on the merits of the rival claims concerning ownership of the goods in question.

13. It is further clarified that upon appropriate steps being taken by either of the parties, the learned Arbitrator is requested to take up and consider the issue relating to ownership and entitlement of the



2026:DHC:4234



disputed goods expeditiously and in accordance with law.

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

**HARISH VAIDYANATHAN SHANKAR, J**

**MAY 13, 2026/nd/va**

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