



2026:DHC:3744



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI****Date of decision: 27.04.2026**+ **OMP (ENF.) (COMM.) 284/2025****SH. SUNDER LAL GUPTA**

.....Decree Holder

Through: **Mr. Manoj Chouhan and Ms.
Neha Raj Singh, Advocates.**

versus

**M/S SAHYOG HOSPITALITY AND OTHERS THROUGH
ITS PARTNERS**

.....Judgement Debtor

Through: **Mr. Apoorv Kurup, Senior
Advocate along with Mr. Vijay
Kasana, Mr. Aayush Mishra,
Mr. Gurjas Narula and Mr.
Vaibhav Sharma, Advocates.****CORAM:****HON'BLE MR. JUSTICE HARISH VAIDYANATHAN
SHANKAR**

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JUDGEMENT (ORAL)**HARISH VAIDYANATHAN SHANKAR, J.**

1. The present Petition has been instituted under Section 17(2) of the **Arbitration and Conciliation Act, 1996¹**, read with Order XXI Rule 11(2) of the **Code of Civil Procedure, 1908²**, seeking enforcement and execution of the **Interim Order dated 06.11.2025³** passed by the learned Sole Arbitrator, in DIAC Case Reference No. DIAC/11070/06-25. By way of the said Petition, the Decree Holder prays for the following reliefs:

¹ A&C Act

² CPC

³ Interim Order



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- “A. Enforce/execute the Order dated 06/11/2025 passed by the Hon'ble Sole Arbitrator Justice Ms. Rekha Palli (Retd.) in case reference No.DIAC/ 11070/06-25 in favour of petitioner granting the following reliefs:
- Direct the Respondent to deposit with the DIAC 81.25% monthly mesne profits@ Rs. 25,86,095/- along with the GST for the last 12 months i.e. 01.11.2024 to 31.10.2025 which is amounting to Rs. 2,97,53,023/-
 - Direct the Respondents to deposit the Rs. 2,97,53,023/- with DIAC along with 18% interest on delay in depositing the amount.
 - Pass an order directing the Respondents to disclose on oath all their bank accounts and properties to make recoveries by attaching the bank accounts of the Respondents towards the fulfilment on interim order dated 6/11/2025.
 - Pass an order for attachment and sale of the properties of the Respondents.
 - Cost of the enforcement proceedings maybe awarded in the favour of petitioner.
- B. This Hon'ble Court may pass any other Order/s and such other and further Order/s as may be deemed to fit and Proper in the facts and circumstances of the present case.”

2. The Interim Order dated 06.11.2025 was passed by the learned Sole Arbitrator on an application filed by the Decree Holder/ Claimant therein under Section 17 of the A&C Act, in the course of arbitral proceedings between the parties.

3. On the preliminary issue concerning the continuation of the present Petition, which seeks execution of an interim order passed by the learned Arbitral Tribunal even after the pronouncement of the **Arbitral Award dated 02.03.2026⁴**, learned counsel appearing on behalf of the Decree Holder submits that the Petition is clearly maintainable in law.

4. It is the submission of the learned counsel for the Decree Holder that the A&C Act expressly envisages the initiation as well as continuation of proceedings under Section 17(2) for enforcement of

⁴ Final Award



interim measures granted by the Arbitral Tribunal, without prescribing any limitation or embargo based on the stage of the arbitral proceedings or the subsequent rendering of the final award.

5. **Per Contra**, learned senior counsel for the Judgment Debtor does not dispute, in principle, the maintainability of a petition under Section 17(2) for enforcement of an interim order. However, it is contended that, in the peculiar facts of the present case, the Interim Order sought to be enforced stands subsumed in the Final Award. It is further submitted that the interim direction required deposit with the Delhi International Arbitration Centre of an amount representing 81.25% of the monthly *mesne* profits, quantified at Rs. 25,86,095/- for the period from 01.11.2024 to 31.10.2025, and that this very issue has been comprehensively addressed in the Final Award.

6. In support of the aforesaid contention, learned senior counsel for the Judgment Debtor has drawn the attention of this Court to the operative portion of the Final Award, whereby Claim No. 2 has been allowed. The relevant extract reads as follows:

“37. In the present case, in the absence of any evidence to establish that the sum of Rs. 2,00,000/- per day stipulated under clause 27 of the Contract represents a genuine pre-estimate of loss or actual damage, the said clause appears to be penal in nature. Consequently, the Claimant would be entitled only to such reasonable compensation as can be assessed on the basis of available material, and not the entire penal amount stipulated under Clause 27. From a perusal of the lease deed itself, it emerges that the parties had agreed for an enhancement of 15% on the last paid rent every year and therefore, in line with the directions issued on 06.11.2025, it would be in the interest of justice to direct the Respondents to pay to the Claimants 81.25% share of Rs. 25,87,008/- w.e.f. 01.11.2024, i.e., Rs. 21,01,944/- as monthly *mesne* profits/damages till the time possession is handed over. This monthly amount of Rs. 21,01,944/- has been arrived at by increasing by 15% the agreed rental which was payable till 31.10.2024. **Claim no. 2 is accordingly allowed in favour of the Claimants in the aforesaid terms**”



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7. On the strength of the above, it is submitted that the Final Award directs payment of 81.25% of the *mesne* profits commencing from 01.11.2024, as contemplated in the Interim Order. The only variation, according to the learned senior counsel, lies in the duration of such payment, while the Interim Order was confined to the period from 01.11.2024 to 31.10.2025, the Final Award extends the liability until the date of handing over vacant possession of the subject property.

8. In this backdrop, learned senior counsel for the Judgment Debtor contends that the interim directions have effectively merged into the Final Award, and therefore ceases to have an independent existence for the purpose of enforcement.

9. It is further submitted that, consequent upon the passing of the Final Award, the statutory scheme under Sections 34(3) and 36(1) of the A&C Act becomes operative. In other words, enforcement proceedings in respect of the Award cannot be initiated until the expiry of the prescribed period of three months for challenging the Award, and thus, the present Petition is premature and not maintainable.

10. **In rebuttal**, learned counsel for the Decree Holder submits that the legislative intent underlying Section 17(2) of the A&C Act is clear and unequivocal, *namely*, to ensure enforceability of interim measures granted by the Arbitral Tribunal in the same manner as orders of a court.

11. It is contended by the learned counsel that Section 17(2) of the A&C Act confers an independent and substantive right upon a party to seek enforcement of an interim order, and such right is not



extinguished or diluted merely because the Final Award addresses the same subject matter. Accordingly, the present Petition remains maintainable notwithstanding the subsequent pronouncement of the Award.

12. Learned counsel for the Decree Holder further submits that Sections 17 and 36 of the A&C Act operate in distinct and independent domains. While Section 17 pertains to interim measures granted during arbitral proceedings, Section 36 governs the enforcement of final arbitral awards. The operation of one provision does not eclipse or override the other.

13. It is thus urged that all orders passed by an Arbitral Tribunal are, by virtue of Section 17(2) of the A&C Act, enforceable as if they were orders of a civil court. Any interpretation to the contrary would render the provision otiose and defeat the very purpose for which it was introduced.

14. In support of the aforesaid submissions, reliance is placed by learned counsel for the Decree Holder on the judgment of the Hon'ble Supreme Court in *Alka Chandewar v. Shamshul Ishrar Khan*⁵, particularly Paragraph 9, which reads as follows:

“9. Pursuant to this 246th Report, sub-section (2) to Section 17 was added by the 2015 Amendment Act, so that the cumbersome procedure of an Arbitral Tribunal having to apply every time to the High Court for contempt of its orders would no longer be necessary. Such orders would now be deemed to be orders of the court for all purposes and would be enforced under the Civil Procedure Code, 1908 in the same manner as if they were orders of the court. Thus, we do not find Shri Rana Mukherjee's submission to be of any substance in view of the fact that Section 17(2) was enacted for the purpose of providing a “complete solution” to the problem.”

⁵ (2017) 16 SCC 119



ANALYSIS & DECISION:

15. This Court has heard learned counsel appearing on behalf of the parties at length and, with their able assistance, has carefully considered the pleadings on record, the judicial precedents cited across the Bar, as well as the final Award, a copy of which has been placed before the Court during the course of submissions.

16. A perusal of Section 17 of the A&C Act demonstrates that the provision pertains to interim measures of protection that may be granted by an Arbitral Tribunal. Such measures are intended to operate during the pendency of arbitral proceedings, so as to preserve the subject matter of the dispute and safeguard the interests of the parties. In the present case, the Interim Order sought to be enforced was admittedly passed during the pendency of the arbitral proceedings. The Decree Holder thereafter invoked Section 17(2) of the A&C Act by filing the present Petition seeking enforcement of the said Interim Order. However, during the pendency of the present Petition, the arbitral proceedings culminated in the passing of the Final Award dated 02.03.2026.

17. At this juncture, it would be apposite to examine the legislative framework governing Section 17 of the A&C Act. Prior to the Arbitration and Conciliation (Amendment) Act, 2015, Section 17 was couched in a limited form, empowering the Arbitral Tribunal to grant interim measures but without providing any statutory mechanism for their enforcement. The provision, as it then stood, read as follows:

“17. Interim measures ordered by arbitral tribunal

(1) Unless otherwise agreed by the parties, the arbitral tribunal may, at the request of a party, order a party to take any interim measure of protection as the arbitral tribunal may consider necessary in respect of the subject-matter of the dispute.



(2) The arbitral tribunal may require a party to provide appropriate security in connection with a measure ordered under sub-section (1).”

18. By virtue of the 2015 Amendment Act, Section 17 was substituted in its entirety, introducing a significantly expanded framework. The amended provision not only elaborated the nature and scope of interim measures that could be granted, but, more importantly, introduced sub-section (2), which expressly provided for the enforceability of such orders. The amended Section 17 reads as follows:

“17. Interim measures ordered by arbitral tribunal: -

(1) A party may, during the arbitral proceedings or at any time after the making of the arbitral award but before it is enforced in accordance with section 36 measures apply to the arbitral tribunal-

- (i) for the appointment of a guardian for a minor or person of unsound mind for the purposes of arbitral proceedings; or
- (ii) for an interim measure of protection in respect of any of the following matters, namely: -
 - (a) the preservation, interim custody or sale of any goods which are the subject-matter of the arbitration agreement;
 - (b) securing the amount in dispute in the arbitration;
 - (c) the detention, preservation or inspection of any property or thing which is the subject-matter of the dispute in arbitration, or as to which any question may arise therein and authorising for any of the aforesaid purposes any person to enter upon any land or building in the possession of any party, or authorizing any samples to be taken, or any observation to be made, or experiment to be tried, which may be necessary or expedient for the purpose of obtaining full Information or evidence;
 - (d) interim injunction or the appointment of a receiver;
 - (e) such other interim measure of protection as may appear to the arbitral tribunal to be just and convenient,

and the arbitral tribunal shall have the same power for making orders, as the court has for the purpose of, and in relation to, any proceedings before it.

(2) Subject to any orders passed in an appeal under section 37, any order issued by the arbitral tribunal under this section shall be deemed to be an order of the Court for all purposes and shall be



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enforceable under the Code of Civil Procedure, 1908, in the same manner as if it were an order of the Court.”

19. The aforesaid amendment was introduced pursuant to the recommendations of the Law Commission of India in its 246th Report, which identified a critical lacuna in the pre-amendment regime, *namely*, the absence of any effective mechanism to enforce interim orders passed by arbitral tribunals. This concern, and the rationale for legislative intervention, was noticed by the Hon’ble Supreme Court in *Alka Chandewar (supra)*, wherein it was observed that the amendment was intended to provide a complete and efficacious solution to ensure that interim orders of arbitral tribunals are not rendered ineffectual. The relevant portion of the said judgment reads as follows:

“8. Coming to Shri Rana Mukherjee's submission that sub-section (2) of Section 17 introduced by the 2015 Amendment Act now provides for the necessary remedy against infraction of interim orders by the Tribunal, suffice it to state that the Law Commission itself, in its 246th Report, found the need to go one step further than what was provided in Section 27(5) as construed by the Delhi High Court [*Sri Krishan v. Anand*, 2009 SCC OnLine Del 2472]. The Commission, in its Report, had this to say:

“Powers of Tribunal to order interim measures

46. Under Section 17, the Arbitral Tribunal has the power to order interim measures of protection, unless the parties have excluded such power by agreement. Section 17 is an important provision, which is crucial to the working of the arbitration system, since it ensures that even for the purposes of interim measures, the parties can approach the Arbitral Tribunal rather than await orders from a court. The efficacy of Section 17 is however, seriously compromised given the lack of any suitable statutory mechanism for the enforcement of such interim orders of the Arbitral Tribunal.

47. In *Sundaram Finance Ltd. v. NEPC India Ltd.*, (1999) 2 SCC 479, the Supreme Court observed that though Section 17 gives the Arbitral Tribunal the power to pass orders, the same cannot be enforced as orders of a court and it is for this reason only that Section 9 gives the



court power to pass interim orders during the arbitration proceedings. Subsequently, in *Army Welfare Housing Organisation v. Sumangal Services (P) Ltd.*, (2004) 9 SCC 619, the Court had held that under Section 17 of the Act no power is conferred on the Arbitral Tribunal to enforce its order nor does it provide for judicial enforcement thereof.

48. In the face of such categorical judicial opinion, the Delhi High Court attempted to find a suitable legislative basis for enforcing the orders of the Arbitral Tribunal under Section 17 in *Sri Krishan v. Anand*, 2009 SCC OnLine Del 2472 [followed in *Indiabulls Financial Services Ltd. v. Jubilee Plots & Housing (P) Ltd.*, 2009 SCC OnLine Del 2458]. The Delhi High Court held that any person failing to comply with the order of the Arbitral Tribunal under Section 17 would be deemed to be “making any other default” or “guilty of any contempt to the Arbitral Tribunal during the conduct of the proceedings” under Section 27(5) of Act. The remedy of the aggrieved party would then be to apply to the Arbitral Tribunal for making a representation to the court to mete out appropriate punishment. Once such a representation is received by the court from the Arbitral Tribunal, the court would be competent to deal with such party in default as if it is in contempt of an order of the court i.e. either under the provisions of the Contempt of Courts Act or under the provisions of Order 39 Rule 2-A of the Code of Civil Procedure, 1908.

49. The Commission believes that while it is important to provide teeth to the interim orders of the Arbitral Tribunal as well as to provide for their enforcement, *the judgment of the Delhi High Court in Sri Krishan v. Anand*, 2009 SCC OnLine Del 2472 is not a complete solution. The Commission has, therefore, recommended amendments to Section 17 of the Act which would give teeth to the orders of the Arbitral Tribunal and the same would be statutorily enforceable in the same manner as the orders of a court. In this respect, the views of the Commission are consistent with (though do not go as far as) the 2006 amendments to Article 17 of the Uncitral Model Law.”

(emphasis supplied)

20. A careful reading of the observations of the Law Commission of India, as noticed and extracted by the Hon’ble Supreme Court, makes it abundantly clear that, prior to the Arbitration and



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Conciliation (Amendment) Act, 2015, the statutory framework suffered from a significant infirmity insofar as interim measures granted by an Arbitral Tribunal under Section 17 were concerned.

21. Although the Tribunal was vested with the power to grant such interim reliefs, there existed no direct or efficacious mechanism for their enforcement. As a result, parties were compelled to resort to indirect and often cumbersome judicial processes to secure compliance. This not only diluted the authority of the Arbitral Tribunal but also undermined the very objective of arbitration as a self-contained, efficient, and expeditious dispute resolution mechanism. It was precisely to cure this deficiency and to impart efficacy to the orders of the Tribunal that sub-section (2) was introduced to Section 17, thereby statutorily elevating such orders to the status of orders of a civil court for the limited purpose of enforcement.

22. Section 17(2) of the A&C Act, which assumes central significance in the present controversy, is couched in clear and unambiguous terms. It provides that any order passed by an Arbitral Tribunal under Section 17 shall be deemed to be an order of the Court “for all purposes” and shall be enforceable in accordance with the provisions of the CPC, in the same manner as if it were an order passed by the Court itself. The legal consequence of this deeming fiction is that interim measures granted by the Tribunal acquire enforceability through the established machinery of civil execution.

23. Accordingly, such orders may be executed under the provisions of Order XXI of the CPC, which governs the “*Execution of Decrees and Orders*”. The introduction of Section 17(2) of the A&C Act,



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therefore, marks a decisive shift in the legislative scheme by creating a direct, formal, and effective enforcement mechanism, one that was conspicuously absent in the pre-amendment regime, and by ensuring that interim orders of the Tribunal are not rendered illusory or ineffectual.

24. Further developments in the statutory scheme must also be noticed. By way of the Arbitration and Conciliation (Amendment) Act, 2019, a limited yet significant modification was introduced to Section 17(1), whereby the words “*or at any time after the making of the arbitral award but before it is enforced in accordance with Section 36*” came to be omitted. The effect of this deletion is to clarify and confine the temporal scope within which an Arbitral Tribunal may exercise its power to grant interim measures. Under the amended framework, such power is restricted to the period during which the arbitral proceedings are pending and does not extend beyond the making of the arbitral award.

25. The net effect of the Amendments, therefore, appears to be that the power of the Arbitral Tribunal to grant interim measures under Section 17 of the A&C Act is circumscribed to the pendency of arbitral proceedings and does not extend beyond the making of the Final Award. In other words, interim measures, by their very nature, are intended to operate during the subsistence of the arbitral proceedings.

26. In the facts of the present case, it is an admitted position that the Final Award came to be rendered on 02.03.2026. A perusal of the said Award reveals that the substantive directions contained in the Interim Order dated 06.11.2025 have not only been taken into consideration



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but have, in effect, been incorporated within the Final Award itself, *albeit* with an expanded scope. While the Interim Order directed payment of 81.25% of the monthly *mesne* profits for a specified period, the Final Award extends this liability from the same commencement date, i.e., 01.11.2024, until the handing over of vacant possession of the subject property. In these circumstances, this Court is of the considered view that the interim directions, to the extent they relate to the determination and payment of *mesne* profits, stand subsumed and merged into the Final Award.

27. In such a scenario, if this Court were to proceed to grant the reliefs sought in the present Petition under Section 17(2) of the A&C Act, particularly when, during the pendency of the Petition, the Final Award has already been rendered, it would give rise to a situation where the statutory scheme governing the enforcement of arbitral awards may be rendered otiose. This Court observes so because Section 36 of the A&C Act expressly provides that an arbitral award shall be enforced as a decree only upon the expiry of the period prescribed under Section 34(3), *namely*, three months from the date of the award, subject to any extension of 30 days granted for sufficient cause. Entertaining and allowing the present Petition in such circumstances would effectively bypass this statutory framework.

28. This Court is in agreement with the submission advanced on behalf of the Decree Holder to the extent that a petition under Section 17(2) of the A&C Act is, in principle, independently maintainable for the enforcement of interim measures granted by an Arbitral Tribunal. This position flows both from the legislative intent underlying the provision and the law laid down by the Hon'ble Supreme Court in



Alka Chandewar (supra). However, given the peculiar fact that the Final Award has been rendered during the pendency of the present proceedings and has comprehensively dealt with, and effectively incorporated, the subject matter of the interim order, it becomes necessary to harmonise the operation of the relevant provisions of the A&C Act so as to give full and meaningful effect to the statutory scheme as a whole.

29. In this view of the matter, this Court is of the considered opinion that, where the directions contained in an interim order are effectively subsumed into the operative part of the Final Award, the enforcement of such directions must thereafter be governed by the regime applicable to the enforcement of arbitral awards. Consequently, the provisions of Sections 34(3) and 36(1) of the A&C Act must be allowed to operate in their full play, without being circumvented through parallel enforcement proceedings under Section 17(2) of the A&C Act.

30. This Court, therefore, is unable to accept the contention advanced on behalf of the Decree Holder that the present Petition ought to be allowed for enforcement of the Interim Order notwithstanding the subsequent passing of the Final Award, which has addressed the very same subject matter in a comprehensive manner during the pendency of these proceedings. Acceptance of such a contention would, in effect, disrupt the statutory framework of the A&C Act and dilute the procedural safeguards embedded in the provisions governing challenge and enforcement of arbitral awards.

31. It is, however, clarified that had the Final Award not been rendered during the pendency of the present Petition, this Court would



have been fully justified in proceeding to enforce the Interim Order in exercise of its powers under Section 17(2), read with the relevant provisions of the CPC.

32. This Court also deems it appropriate to observe that interim orders passed by an Arbitral Tribunal, being a forum constituted by the consent of the parties, carry binding force and are expected to be complied with in letter and spirit. In the event of non-compliance, Section 17(2) of the A&C Act empowers the Court to take appropriate measures to secure enforcement of such orders. However, this enforcement mechanism is inherently linked to the interim nature of such directions and cannot be extended in a manner that permits their independent enforcement even after the Final Award has been rendered, particularly where the Award itself comprehensively addresses and governs the subject matter of the Interim Order.

33. In view of the foregoing discussion, this Court is of the considered opinion that, in the peculiar facts and circumstances of the present case, the reliefs sought under Section 17(2) of the A&C Act cannot be granted at this stage. Accordingly, the present Petition stands dismissed.

34. It is, however, clarified that the Decree Holder shall be at liberty to avail such remedies as may be available to it in law.

35. At this stage, since a copy of the Final Award has been handed over to the Court during the course of the hearing, this Court deems it appropriate to direct that the same be taken on record. The Registry is accordingly directed to place the copy of the Final Award on the Court record.



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

HARISH VAIDYANATHAN SHANKAR, J.
APRIL 27, 2026/nd/va

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