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

+ **W.P.(C) 19520/2025 & CM. APPL. 2527/2026**

DJT RETAILERS PRIVATE LIMITED

.....Petitioner

Through: Mr. Nalin Kohli, Sr. Adv. and Mr. Gautam Narayan, Sr. Adv. with Mr. Sanjeev Kumar, Mr. Abhishek Kisku, Mr. Anshul Sehgal, Mr. Pranshu Paul, Mr. Srajan Dixit, Mr. Divyanshu Jain and Mr. Shivam Jha, Advs.

versus

PACIFIC RETAIL CENTERS INDIA PRIVATE LIMITED

.....Respondent

Through: Mr. Attin Shankar Rastogi, Mr. Archit Chauhan and Mr. Adil Vadudeva, Advs.

CORAM:

HON'BLE MR. JUSTICE PURUSHAINDR KUMAR KAURAV

ORDER

% **15.01.2026**

1. The petition is against the impugned order dated 21.11.2025 passed by the sole arbitrator, whereby, the petitioner's application bearing No.03/2025, seeking to take on record the Statement of Defence, was rejected.
2. The Court has considered various submissions made by learned senior counsel appearing for the parties, including that the petitioner has 'sufficient cause' as required under Section 25 of the Arbitration and Conciliation Act, 1996 (Arbitration Act) for taking on record the Statement of Defence, and



accordingly, it is argued that the view taken by the sole arbitrator is wholly perverse and highly detrimental to the interest of the petitioner.

3. Mr. Nalin Kohli, learned counsel appearing for the petitioner, has taken the Court through the order of this Court dated 05.08.2025 in O.M.P. (COMM) 311/2025 and asserts that in the interest of justice, the petitioner's application ought to have been allowed as the same would not cause any prejudice to the respondents.

4. The aforesaid submissions are opposed by Mr. Attin Shankar Rastogi, learned counsel appearing for the respondent.

5. The sole-arbitrator, in paragraph Nos. 17 to 19 of the impugned order, has considered the prayer made in the aforesaid application:

"17. Reverting to facts of the present case, with the consent of the parties, a joint schedule for filing of pleadings was agreed between the parties. The Respondent agreed to file SOD on or before 12.04.2025, which was a gap of six weeks. The Respondent did not file the SOD instead pressed their application under Section 16 of the Act which was dismissed on 14.05.2025. The Respondent was given another opportunity to file SOD till 31.05.2025 which they failed to utilize. Thus, in terms of Section 25(b) of the Act and Rule 17.2 of the DIAC Rules, 2023, this Tribunal proceeded to close the Respondent's right to file its SOD vide its procedural orders dated 14.05.2025 and reiterated the same vide order dated 06.06.2025.

18. The Respondent has contented they have sufficient cause for not filing SOD in the prescribed time since they received advice from their erstwhile counsel's that SOD should not be filed till the disposal of application of section 16 of the Act. This Tribunal is of the opinion that this plea is not available to the Respondent as another opportunity was granted to the Respondent to file SOD after the application under Section 16 of the Act was dismissed however, they elected not to file the same.

19. It is noteworthy that no efforts were made by the Respondent to file SOD even after a new lawyer was appointed. The new lawyer appeared on 07.07.2025 and the SOD was filed on 08.08.2025, thus there was a further delay of about a month even after engagement of a new lawyer. Besides the application is conspicuously silent about the reason for failure to file SOD after new lawyer took over the case hence mistake of the erstwhile lawyer cannot constitute sufficient cause in determining this Application. As noted above the SOD with the present Application was filed 86 days after the dismissal of application under Section 16 of the Act and no



sufficient cause have been shown for not filing in time, hence, the present application is devoid of merit.”

6. Undoubtedly, the Court, in exercise of power under Article 227 of the Constitution of India, can examine the legality of the order passed by the sole-arbitrator. This position has been reiterated by the Supreme Court in the case of ***SREI Infrastructure Finance v. Tuff Drilling***.¹

7. However, unless the procedure followed by the arbitrator is found to be wholly illogical or in derogation of the statutory provisions, the same normally should not be interfered with. This view is in line with the decision of the Supreme Court in ***Rajendra Diwan v. Pradeep Kumar Ranibala and Another***.² The relevant portion of the same is extracted below, for reference:

“85. The power of superintendence conferred by Article 227 is, however, supervisory and not appellate. It is settled law that this power of judicial superintendence must be exercised sparingly, to keep subordinate courts and tribunals within the limits of their authority. When a Tribunal has acted within its jurisdiction, the High Court does not interfere in exercise of its extraordinary writ jurisdiction unless there is grave miscarriage of justice or flagrant violation of law. Jurisdiction under Article 227 cannot be exercised “in the cloak of an appeal in disguise”.

86. In exercise of its extraordinary power of superintendence and/or judicial review under Articles 226 and 227 of the Constitution of India, the High Courts restrict interference to cases of patent error of law which go to the root of the decision; perversity; arbitrariness and/or unreasonableness; violation of principles of natural justice, lack of jurisdiction and usurpation of powers. The High Court does not re-assess or re-analyse the evidence and/or materials on record. Whether the High Court would exercise its writ jurisdiction to test a decision of the Rent Control Tribunal would depend on the facts and circumstances of the case. The writ jurisdiction of the High Court cannot be converted into an alternative appellate forum, just because there is no other provision of appeal in the eye of the law.”

8. A perusal of the impugned order indicates the following:

¹ (2018) 11 SCC 470

² 2019 SCC OnLine 1586



- 8.1. As per the joint schedule for filing of pleadings issued with the consent of the parties, the petitioner was to file its Statement of Defence within 12.04.2025.
- 8.2. Instead of filing its Statement of Defence, the petitioner pressed its application under Section 16 of the Arbitration Act, which was ultimately dismissed on 14.05.2025.
- 8.3. The petitioner was given another opportunity to file its Statement of Defence on or before 31.05.2025 which it failed to utilize.
- 8.4. The reason attributed by the petitioner for the aforesaid non-filing, was that its previous counsel had advised that the Statement of Defence was not to be filed before adjudication of the application under Section 16 of the Arbitration Act.
- 8.5. The said reason was not accepted by the sole-arbitrator in view of the petitioner's failure to utilize the second opportunity for filing the Statement of Defence which was extended after the adjudication of the application under Section 16 of the Arbitration Act.
- 8.6. The sole-arbitrator opined that the order dated 05.08.2025, passed by this Court in O.M.P (COMM) 311/2025 also does not permit the filing of the Statement of Defence beyond the agreed time schedule.
9. Therefore, the impugned order clearly records that sufficient time was extended for the petitioner to file its Statement of Defence. Proper appreciation of the provision under Section 19 of the Arbitration Act would indicate that the parties are free to agree on the procedure to be followed by the arbitral tribunal/ sole-arbitrator in conducting its proceedings. In case, no



such agreement has been arrived at, the arbitral tribunal/sole arbitrator has been conferred with the discretion to conduct the arbitral proceedings in the manner it considers appropriate. Therefore, the sole-arbitrator was bound by the joint-schedule for filing of pleadings. Apart from the same, the sole-arbitrator was fully empowered to regulate the arbitral procedure.

10. A perusal of the order dated 05.08.2025 in O.M.P. 311/2025 also indicates that the sole-arbitrator has rightly concluded that no liberty to file the Statement of Defence has been granted therein.

11. Considering the aforesaid provision and the law as recorded in the judgment in **Rajendra Divan**, the High Court, under Article 227 of the Constitution of India, must not sit over the procedure adopted by the sole-arbitrator and to examine its rationale, in the absence of any patent error of law which go to the root of the decision, such as, perversity; arbitrariness and/or unreasonableness; violation of principles of natural justice, lack of jurisdiction and usurpation of powers.

12. Accordingly, the petition is disposed of.

PURUSHAINDR KUMAR KAURAV, J

JANUARY 15, 2026/p/amg