

HRBH010023472025



EXE/128/2025
M/S MANNAPURAM Vs. VIKAS NAKIRAM

Present: Sh. Rakesh Sangwan, Advocate for petitioner-DH.

ORDER-

Arguments heard.

02. At this juncture, upon a perusal of the case papers it has transpired that present execution petition is in respect of an Award passed by the Sole-Arbitrator on 15.05.2024 at Kerala. The learned counsel for the petitioner/decreed-holder has been inquired about the maintainability of execution petition in respect of an Award passed by a sole arbitrator in view of the judgment passed by the Hon'ble Supreme Court of India in the case of *Perkins Eastman Architects DPC & Anr. Vs. HSCC (India) Ltd. AIR 2020 (SC) 59*.

03. The learned counsel has fairly admitted that the award in question was indeed passed by the sole arbitrator appointed by the petitioner company.

04. In the case of *Voestalpine Schienen GMBH Versus DMRC Ltd. 2017 (4) SCC 665*, Hon'ble Delhi High Court dealt with question of independence and impartiality of the arbitrator in following manner-

“20. Independence and impartiality of the arbitrator are the hallmarks of any arbitration proceedings. Rule against bias is one of the fundamental principles of natural justice which applied to all judicial and quasi-judicial proceedings. It is for this reason that notwithstanding the fact that relationship between the parties to the arbitration and the arbitrators

themselves are contractual in nature and the source of an arbitrator's appointment is deduced from the agreement entered into between the parties, notwithstanding the same non-independence and non-impartiality of such arbitrator (though contractually agreed upon) would render him ineligible to conduct the arbitration. The genesis behind this rational is that even when an arbitrator is appointed in terms of contract and by the parties to the contract, he is independent of the parties. Functions and duties require him to rise above the partisan interest of the parties and not to act in, or so as to further, the particular interest of either parties. After all, the arbitrator has adjudicatory role to perform and, therefore, he must be independent of parties as well as impartial”.

05. The said observation in **Voestalpine (Supra)** has been iterated and affirmed in **Perkins Eastman Architects DPC (Supra)** in following manner-

“Independence and impartiality are two different concepts. An arbitrator may be independent and yet, lack impartiality, or vice versa. Impartiality, as is well accepted, is a more subjective concept as compared to independence. Independence, which is more an objective concept, may thus be more straightforwardly ascertained by the parties at the outset of the arbitration proceedings in light of the circumstances disclosed by the arbitrator, while partiality will more likely surface during the arbitration proceedings.

06. In the light of ratio of aforesaid judgments, it comes out that the Awards passed by sole arbitrator, under the Arbitration and Conciliation Act are not enforceable in the Court of law, as same do not hold any sanctity as well as element of impartiality.

07. As such, the present execution petition, being in respect of an Award passed by sole arbitrator, is not maintainable. **Same is hereby dismissed.** The warrant of attachment issued, if any, qua the property of

M/s Manappuram, Finance Ltd. Versus Vikas Nakiram and others

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judgment-debtor and notice/summons to participate in the proceedings, if
issued, stands recalled.

Papers, after needful compliance be consigned to the record.

Date of Order: 19.04.2025

Renu Bala, Stenographer-I

(Ashish Kumar Sharma)
Additional District Judge, Bhiwani
(UID No. HR00266)