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

\+ **W.P.(C) 1744/2026**

Date of Decision: **23.04.2026**

IN THE MATTER OF:

K C AGGARWAL .....Petitioner

Through: Petitioner in person.

versus

NATIONAL STOCK EXCHANGE OF INDIA LIMITED & ANR. .....Respondent

Through: 1) Mrs. Sonali Jaitley Bakhshi, Adv; 2) Mr. Jaiyesh Bakhshi, Adv; 3) Mr. Ravi Tyagi, Adv; 4) Mr. Mayank Mishra, Adv; 5) Mr. Gaurav Mishra, Adv; 6) Mrs. Manmilan Sidhu, Adv; 7) Mr. Daman Popli, Adv; 8) Mr. Sudiksha Saini, Adv; 9) Mr. Abhijay Basu, Adv; 10) Mr. Abhishek Rathi, Adv. for R-1.
Mr. Md Zaryab Jamal Rizvi, Ms. Firdouse Qutb Wani, Mr. Dilshad Ahmed, Advocate for R-2.

CORAM:
HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

J U D G E M E N T

PURUSHAINDRA KUMAR KAURAV, J. (ORAL)

1. The petition is for setting aside judgment dated 17.11.2021 passed in C.S. No. 677/2021, judgement dated 19.07.2023 passed in C.R.P No. 23/2022, and judgment dated 30.05.2025 in Arb. P. No. 1264/2023. Further,

the petitioner prays for directions to the Trial Court to continue proceedings in C.S. No. 677/2021.

2. The petitioner had filed civil suit bearing number C.S. 677/2021 against the respondents for various reliefs, including recovery of money which was allegedly misappropriated by respondent no. 2-M/s ICICI Securities Limited at the behest of respondent no. 1-National Stock Exchange.

3. The Trial Court, *vide* impugned order dated 17.11.2021, allowed an application filed by respondent no. 2 herein, under Section 8 of the Arbitration Act, 1996 (**Arbitration Act**), and referred the dispute to arbitration. The Trial Court took note of the existence of an arbitration clause in the contract between the petitioner and respondent no. 2, and was of the opinion that the primary prayers in the suit were against the said respondent and therefore, ought to be raised in arbitration proceedings. So far as the prayers against respondent no. 1 were concerned, the Court noted that the prayers were unsupported by necessary pleadings, and therefore could not be granted. As such, the absence of any arbitration agreement between the petitioner and respondent no. 1 would not preclude reference of the dispute to arbitration.

4. The judgment of the Trial Court was challenged by the petitioner before a coordinate Bench of this Court under Section 115 of the Code of Civil Procedure, 1908. The said revision petition was dismissed *vide* impugned judgment dated 19.07.2023, upon finding no infirmity in the judgment of the Trial Court.

5. The petitioner had, thereafter, filed Arb. P. 1264/2023 before this Court, seeking the appointment of an arbitrator and seeking initiation of

arbitration proceedings against both the respondents. Taking note of the judgments in C.S. No. 677/2021 and C.R.P No. 23/2022, the Court, in the impugned judgment dated 30.05.2025, observed that at that stage, an arbitrator could be appointed for the dispute between the petitioner and only respondent no. 2. However, it was also observed that the Arbitral Tribunal was empowered under Section 16 of the Arbitration Act to add parties, should such a need arise, and the petition was disposed of accordingly.

6. The impugned judgments passed by the Trial Court and the Revisional Court have attained finality, and the petitioner has even proceeded to initiate a petition under Section 11 of the Arbitration Act, which ultimately culminated in the impugned judgment dated 30.05.2025.

7. The grievance of the petitioner is against the non-inclusion of respondent no. 1 in the arbitration proceedings by the Section 11 Court. However, it is pertinent to note that the Court has explicitly observed that the Arbitral Tribunal was empowered to add parties to the proceedings under Section 16 of the Arbitration Act. The relevant portion of the decision is extracted below, for reference:

> *"35. The petitioner, however, seeks to include NSE in the arbitration. That is clearly not permissible in view of the order dated 17 November 2021 of the learned Civil Judge, as affirmed by the learned Single Judge of this Court by judgment dated 19 July 2023 in CRP 23/2022 which, as we have already noted, has become final inter partes. 36. This would, however, not preclude the inclusion of NSE as a party to the proceedings at a subsequent stage, should the necessity arise to do so. The Supreme Court has held, in in* ***Cox and Kings Ltd v Sap India Pvt Ltd***.,[1] *and* ***ASF Buildtech Pvt Ltd v Shapoorji Pallonji & Co. Pvt Ltd***.,[2] *that Section 16 of the 1996 Act empowers the Arbitral Tribunal to add or delete parties. As such, that power with the Arbitral Tribunal shall continue to remain vested."*

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[1] (2024) 4 SCC 1

[2] 2025 SCC OnLine SC 1016

8. This Court is not inclined to grant the reliefs sought in the petition, primarily, for the reason that in the exercise of the writ jurisdiction under Article 226/227 of the Constitution of India, challenges to orders of appointment of the Arbitral Tribunal under Section 11 of the Arbitration Act may not be entertained. Reference may be made to the decision of the Supreme Court in ***SBP & Co. v. Patel Engg. Ltd***.,[3] the relevant portion whereof, is reproduced below, for reference:

> *"**44.** Once we arrive at the conclusion that the proceeding before the Chief Justice while entertaining an application under Section 11(6) of the Act is adjudicatory, then obviously, the outcome of that adjudication is a judicial order. Once it is a judicial order, the same, as far as the High Court is concerned would be final and the only avenue open to a party feeling aggrieved by the order of the Chief Justice would be to approach the Supreme Court under Article 136 of the Constitution. If it were an order by the Chief Justice of India, the party will not have any further remedy in respect of the matters covered by the order of the Chief Justice of India or the Judge of the Supreme Court designated by him and he will have to participate in the arbitration before the Tribunal only on the merits of the claim. Obviously, the dispensation in our country, does not contemplate any further appeal from the decision of the Supreme Court and there appears to be nothing objectionable in taking the view that the order of the Chief Justice of India would be final on the matters which are within his purview, while called upon to exercise his jurisdiction under Section 11 of the Act. It is also necessary to notice in this context that this conclusion of ours would really be in aid of quick disposal of arbitration claims and would avoid considerable delay in the process, an object that is sought to be achieved by the Act."*

9. Even otherwise, as noted by the Section 11 Court, the Arbitral Tribunal is empowered under Section 16 of the Arbitration Act to implead even non-signatories to arbitration agreements in arbitration proceedings. Reference may be made to the following paragraphs in the decision of the Supreme Court in **Adavya Projects Pvt. Ltd. v. M/s Vishal Structuras Pvt.**

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[3] (2005) 8 SCC 618

Ltd. and Ors.:[4]

> *"II. The purpose of an application under Section 11 is for the court to appoint an arbitrator, so as to enable dispute resolution through arbitration when the appointment procedure in the agreement fails. The court only undertakes a limited and prima facie examination into the existence of the arbitration agreement and its parties at this stage. Hence, merely because a court does not refer a certain party to arbitration in its order does not denude the jurisdiction of the arbitral tribunal from impleading them during the arbitral proceedings as the referral court's view does not finally determine this issue.*
>
> *III. The relevant consideration to determine whether a person can be made a party before the arbitral tribunal is if such a person is a party to the arbitration agreement. The arbitral tribunal must determine this jurisdictional issue in an application under Section 16 by examining whether a nonsignatory is a party to the arbitration agreement as per Section 7 of the ACA"*

10. In view thereof, the petition is found to be without merit. The same is, therefore, dismissed along with pending applications.

PURUSHAINDRA KUMAR KAURAV, J

APRIL 23, 2026/P

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