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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR-6905-2025(O&M)
Date of Decision:26.09.2025

Advance India Projects Ltd.

....Appellants(s)

Versus

Rahul Gupta and another

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Anand Chhibber, Senior Advocate assisted by
Mr. Sandeep Verma, Advocate, for the petitioner.

Mr. Vipul Joshi, Advocate and
Mr. Piyush Kumar, Advocate, for the Caveator.

JASGURPREET SINGH PURI, J. (Oral)

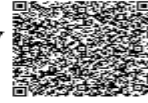
1. The present petition has been filed under Article 227 of the Constitution of India for setting aside the impugned order dated 22.08.2025 (Annexure P-A), whereby the application under Section 36(2) of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as 'the Act') seeking stay of the arbitral award dated 10.02.2025 (Annexure P-1) has been allowed on the onerous condition of depositing Rs. 85,00,000/-.

2. Mr. Anand Chhibber, learned Senior Counsel appearing on behalf of the petitioner with Mr. Sandeep Verma, learned counsel submitted that it is a case where the petitioner company is the judgment debtor against whom an arbitration award was passed. The award was assailed by the petitioner by filing objections under Section 34 of the Act and along with



the objections, an application under Section 36(2) of the Act seeking stay of the operation of the impugned award dated 10.02.2025 was also filed. He while referring to the award passed against the petitioner submitted that although in the operative part of the order the total amount of the award which was passed was Rs. 88,69,147/- along with interest @ 12% on the awarded amount but the same included Rs. 4,64,820/- as GST which the petitioner had already paid and there was no question of paying the same again to the respondent and it also includes about Rs. 16,00,000/- as a component which was paid as cash and since more than Rs. 2,00,000/- cash cannot be paid, the same was also against the law. He submitted that after deducting the aforesaid amount, the liability, if at all, of the petitioner subject to the final adjudication of the objections under Section 34 of the Act can be stated to be about Rs.43,00,000/- only and therefore, at the most an amount of Rs.40,00,000/- could have been deposited in pursuance of the impugned order, whereas by way of the impugned order, it has been so directed by the learned Additional District Judge to deposit an amount of Rs.85,00,000/- by considering the total outstanding amount as per award to be Rs.88,69,147/-.

3. Learned Senior Counsel submitted that if the cash component of Rs.16,00,000/- is not in accordance with law, then it will not only be against the law but against the public policy and therefore, such an amount could not have been directed to be deposited by the petitioner before the learned Executing Court while considering the application under Section 36(2) of the Act. He also submitted that while considering an application for grant of stay under Section 36(2) of the Act, the rationale of Order 41 Rule 5 of CPC



is to be seen but it is not *mutatis mutandis* applicable to the Act and which law is already settled. He submitted that it is the discretion of the learned Court to consider the principles and the rationale of Order 41 Rule 5 of CPC and therefore, while arriving at a figure by the learned Additional District Judge while considering the prayer of the petitioner under Section 36(2) of the Act was to pass a reasonable order for directing the petitioner for deposit of the amount regarding which there is no dispute which comes out to be around Rs.43,00,000/- and not Rs.85,00,000/-. He submitted that acute prejudice will be caused to the petitioner in case the aforesaid amount is deposited by the petitioner and therefore, the impugned order may be set aside to a limited extent that the aforesaid amount of Rs.85,00,000/- which has been directed to be deposited be reduced to Rs.43,00,000/-.

4. Mr. Vipul Joshi, learned counsel has appeared on behalf of the respondent-Caveator and submitted that the award amount is Rs.88,69,147/-, which includes number of components such as GST, interest or any other component but the total amount which is the awarded amount is the aforesaid amount along with interest thereon @ 12% and therefore, when the learned Additional District Judge was considering the aforesaid prayer of the petitioner for staying of the award with a direction to deposit Rs.85,00,000/- which is again lesser than the awarded amount, then the rationale and purpose was to secure the amount which was the awarded amount and that was the reason as to why the aforesaid amount of Rs.85,00,000/- was directed to be deposited and therefore, no illegality or perversity can be found in the aforesaid impugned order.



5. Learned counsel further submitted that by way of the impugned order, the application under Section 36(2) of the Act has been decided by the learned Additional District Judge, who is the Presiding Judge, Exclusive Commercial Court at Gurugram exercising jurisdiction under the Commercial Courts Act, 2015, which is clear from the aforesaid impugned order itself and once an order has been passed by a Commercial Court, then the bar contained under Section 8 of the Commercial Courts Act will come into play which so provides that when an order is passed by a Commercial Court, then no revision will lie against interlocutory orders. He submitted that although the supervisory powers of the High Court under Article 227 of the Constitution of India which has been sought to be invoked by the petitioner in the present case cannot be barred absolutely but considering the aforesaid statutory provision, it can be exercised only when there is patent illegality or perversity on the face of it or in a situation where the High Court comes to the conclusion while exercising powers under Article 227 of the Constitution of India that there is some rare and exceptional circumstance under which the power should be exercised but in normal circumstances, the aforesaid bar of Section 8 of the Commercial Courts Act will apply and therefore, the present revision petition itself is not maintainable and is liable to be dismissed. He referred to a Division Bench judgment of Gujarat High Court in *State of Gujarat versus Union of India, 2018 SCC Online Guj 1515* and also a judgment passed by a Coordinate Bench of this Court in *Apollo International Limited versus Man Structural Private Limited, CR No.5996 of 2024, decided on 20.11.2024* in this regard.

6. I have heard the learned counsels for the parties.



7. Before proceeding further, it will be just and proper to reproduce the operative part of the award and the operative part of the impugned order, while considering the plea raised by the learned counsels for the parties,

8. The operative part of the award at page No.50 of the paper-book is reproduced as under:-

“34. Accordingly, the Respondent is directed to refund the amount of Rs. 55,13,500/- with 12% from the date of deposit by the Claimants till the date of the present Award. From the submission of the Respondent, it appears that the Respondent has paid an amount of Rs. 19,39,306/- till date to the Claimants. The Respondent shall be entitled to deduct the amount paid by it to the Claimants, from the amount to be refunded by it. The Respondent shall also refund the amount of Rs. 4,64,820/-, paid towards GST, though no pre-suit or pendente lite would be paid on the same. The total amount as calculated is Rs. 88,69,147/-. Claimants shall be entitled to 12% interest on the awarded amount from one”

9. The operative part of the impugned order at page No.37 of the paper-book is reproduced as under:-

“16. Keeping in view the aforesaid factual and legal position, the application moved on behalf of petitioner is partly allowed. In the execution petition, the respondent has claimed a sum of Rs. 88,69,147/-. So it is ordered that the operation of the impugned award will remain stayed in case the petitioner, who is judgment debtor in the execution petition deposits an amount of Rs. 85 lakhs in the court on or before the next date fixed in



the execution petition i.e. 16.09.2025 for depositing the amount by the judgment debtor in the execution petition. In case needful is done, the said amount shall be kept in a fixed deposit in a nationalised bank fetching maximum rate of interest and the same will be released in terms of the final order passed in the pending petition under Section 34 of the Act. Application stands partly allowed in the aforesaid terms.”

10. A perusal of the aforesaid award would show that the total award of Rs.88,69,147/- was passed which included various components including GST. An argument was raised by the learned Senior Counsel appearing on behalf of the petitioner that the aforesaid GST already stood paid and therefore, the aforesaid amount is not to be paid by the petitioner. Another argument was raised by the learned Senior Counsel appearing on behalf of the petitioner that the aforesaid amount included an amount of Rs.16,00,000/- as component which was a result of cash transaction which is against the law. When an application was filed under Section 36(2) of the Act for staying of the award, the learned Additional District Judge has stayed the award by way of the impugned order subject to deposit of Rs.85,00,000/- in the Court which was thereafter directed to be kept in a fixed deposit in a Nationalized Bank fetching maximum rate of interest. The aforesaid amount of Rs.85,00,000/- was less than the awarded amount to the tune of Rs.3,69,147/-. An amount of Rs.88,69,147/- has already been awarded by the learned Arbitrator. The same is assailed by filing objections under Section 34 of the Act which are still pending. Till the time the aforesaid objections are not accepted, if at all, the aforesaid amount will remain intact



and the learned Court while deciding the application under Section 36(2) of the Act has to secure the interest amount and the awarded amount. It appears that the award does not include any future rate of interest, whereas the amount which has been ascertained by the learned Arbitrator has been directed to be deposited and that too which is to be kept in a fixed deposit in a Nationalized Bank fetching maximum rate of interest. In fact what has been argued by the learned Senior Counsel appearing on behalf of the petitioner is on the merits of the award which is the subject matter of objections under Section 34 of the Act and therefore, at the stage of considering the application under Section 36(2) of the Act, such plea cannot be considered. The purpose of directing the petitioner to deposit the aforesaid amount is only to secure the award amount and nothing more than that nor does it give any reflection upon the merits of the objections. Therefore, the aforesaid argument raised by the learned Senior Counsel is not sustainable.

11. Apart from the above, as per Section 8 of the Commercial Courts Act, 2015, there is a specific provision pertaining to the bar for filing a revision application or petition against an interlocutory order, which is in the nature of a non obstante clause. Section 8 of the Commercial Courts Act, 2015, is reproduced as under:-

“8. Bar against revision application or petition against an interlocutory order.—*Notwithstanding anything contained in any other law for the time being in force, no civil revision application or petition shall be entertained against any interlocutory order of a Commercial Court, including an order on the issue of jurisdiction, and any such challenge, subject to the*



provisions of section 13, shall be raised only in an appeal against the decree of the Commercial Court.”

12. There can be no doubt in the proposition of law that in rare and exceptional cases, the constitutional powers of the High Court under Article 227 of the Constitution of India cannot be curtailed absolutely but for that it has to be shown that on the face of it, the case falls in the rare and exceptional circumstances. In the present case, it cannot be said that the case falls in the category of rare and exceptional circumstances or on the face of it, the impugned order is illegal. The reliance placed by the learned counsel for the respondent-Caveator on the aforesaid judgments is well founded.

13. In view of the aforesaid facts and circumstances, the present revision petition being devoid of any merit, is hereby dismissed.

26.09.2025

(JASGURPREET SINGH PURI)

rakesh

JUDGE

Whether speaking	:	Yes/No
Whether reportable	:	Yes/No