

Groson Engineers vs M/S Rajiv Aggarwal & Anr. on 3 April, 2025

Author: Tushar Rao Gedela

Bench: Tushar Rao Gedela

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IN THE HIGH COURT OF DELHI AT NEW DELHI
LPA 239/2025
GROSON ENGINEERS

Through:
versus

Mr. Chetan Joshi, Advocate

.....Appel

M/S RAJIV AGGARWAL & ANR.

Through:

None

.....Respo

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Date of Decision: 3rd April,

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

JUDGEMENT

TUSHAR RAO GEDELA, J : (ORAL) CM APPL. 19635/2025 (DELAY 20 DAYS)

1. Cause shown is sufficient.

2. Application is allowed and delay in filing the present appeal is condoned.

3. Application stands disposed of.

4. Present Letters Patent Appeal is filed challenging the order dated 03.02.2025 passed by the learned Single Judge in W.P.(C) 1347/2025 titled as "Groson Engineers versus M/s Rajiv Aggarwal & Anr" whereby the learned Single Judge had dismissed the underlying writ petition preferred by the appellant on the ground of minimal judicial intervention in the interlocutory orders passed in arbitral proceedings.

5. It has been averred that by way of the underlying writ petition, the appellant/petitioner had assailed the orders dated 09.05.2024 and 31.12.2024 passed by the learned sole arbitrator in an ongoing arbitral proceedings bearing Case File Ref. No. DIAC/4553/08-22 titled "Groson Engineers versus M/s Rajiv Aggarwal", thereby dismissing the appellant/petitioner's application for disclosure of documents in the possession of the respondent and the appellant/petitioner's second application seeking permission to call additional witness, respectively.

6. Learned counsel for the appellant at the outset submits that the present case depicts apparent lack of jurisdiction by the sole arbitrator, which aspect calls for an interference under Article 227 of

the Constitution of India. He vehemently submits that the orders passed by the learned sole arbitrator are grossly perverse on the face of it and on that basis, learned Single Judge ought to have interfered with the said orders rather than cursorily dismissing the underlying writ petition on the ground of minimal judicial intervention during ongoing arbitration proceedings. While relying upon para 25 of the judgement passed by the Hon'ble Supreme Court in *Surender Kumar Singhal and Ors. vs. Arun Kumar Bhalotia and Ors.* reported in 2021 SCC OnLine 2708, already quoted in the impugned judgement, he submits that, even that judgement is directly in favour of the appellant/petitioner duly supporting the contentions raised in the underlying writ petition.

7. On merits, learned counsel for the appellant submits that the order which were under challenge before learned Single Judge suffer from the vice of non consideration of the contentions of the appellant/petitioner regarding the necessity of the documents and evidence, sought to be brought on record vide the said applications. On that basis he submits that the dismissal of the said applications is absolutely perverse and is severely prejudicial to the case of the appellant/petitioner before the learned sole arbitrator.

8. Learned counsel also submits that the observation of the learned Single Judge while dismissing the underlying writ petition to the effect of availability of an efficacious remedy under the Section of the 34 of the Arbitration and Conciliation Act, 1996, (for short "Act") is absolutely erroneous. He submits that not having the material and evidences to put forth the defence raised by the appellant/petitioner in the arbitration proceedings, is absolutely prejudicial to the case of the appellant/petitioner and the said illegality is neither curable nor envisaged as an objection while taking recourse against the arbitral award, if so passed, as enumerated under Section 34 of the Act. He further submits that, in that view, even the availability of an alternate efficacious remedy is rendered otiose in such circumstances.

9. Heard the learned counsel for the appellant/petitioner at some length.

10. We have perused the impugned judgement and find that the learned Single Judge has relied upon the judgements of *Bhaven Construction vs. Executive Engineer, Sardar Sarovar Narmada Nigam Limited and Anr.* (2022) 1 SCC 75 ; *Sadbhav Engineering Ltd. vs. Micro and Small Enterprises Facilitation Council and Ors.* 2025 SCC OnLine Del 319 ; *Surender Kumar Singhal and Ors. vs. Arun Kumar Bhalotia and Ors.* 2021 SCC OnLine 2708, to conclude that in proceedings under the Arbitration and Conciliation Act, 1996, the Courts under Article 226/227 ought not to ordinarily interfere or interdict the proceedings lest the object of achieving timely delivery of justice as envisaged, is lost. We have no reason to take a differing or a divergent view from the one taken by the learned Single Judge on this issue of law.

11. The issue raised herein by the learned counsel for the appellant would be available to be raised in the challenge to the final award which may be passed by the learned sole arbitrator. The reliance of the appellant on *Surender Kumar Singhal* (supra) is misplaced for the reason that the learned Single Judge has found as a fact that the issue raised by the appellant does not fall within the "exceptional circumstances" which have been carved out in the said judgement. In our opinion too, the submissions addressed by the appellant do not fall within the category as specified in *Surender*

Kumar Singhal (*supra*). Thus, even on this score, the submissions of the appellant are unmerited.

12. In view of the above, we do not find any merit in the appeal and the same is dismissed without any orders as to cost. However, we leave the rights and contentions of the parties' open, to be agitated at an appropriate stage.

TUSHAR RAO GEDELA, J DEVENDRA KUMAR UPADHYAYA, CJ APRIL 3, 2025/rl