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

Reserved on: 27.10.2026
Pronounced on: 05.11.2026
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\# **CNR No. DLHC010377952026**

\+ FAO(OS) (COMM) 216/2026, CM APPL. 54403/2026, CM APPL. 54404/2026, CM APPL. 54405/2026, CM APPL. 61759/2026, CM APPL. 61760/2026

BHUPESH KUMAR DHINGRA & ORS. .....Appellants

Through: Mr. Saurabh Dev, Mr. Karan Singh, Mr. Sridhar Jha, Advs.

versus

RAJEEV BEHL .....Respondent

Through: Mr. Manish Vashisht, Sr. Adv. with Mr. Gaurav Gupta, Mr. Thakur Ankit Singh, Advs.

CORAM:
HON'BLE MR. JUSTICE ANIL KSHETARPAL
HON'BLE MR. JUSTICE BHARAT PARASHAR

JUDGMENT

BHARAT PARASHAR, J.

1. The present appeal is filed under Section 37 of the Arbitration and Conciliation Act, 1996 ("**A & C Act**"), read with Section 10(1) of the Delhi High Court Act, 1966 and Section 13(1A) of the Commercial Courts Act, 2015. It challenges the order dated 03.07.2026 passed by the learned Single Judge in O.M.P.(I) (COMM.) 129/2026 (hereinafter, the "**Impugned Order**") *vide* which, the petition filed by Mr. Rajeev Behl (the Respondent herein) under Section 9 of the Act was allowed.

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The appellants herein namely Mr. Bhupesh Kumar Dhingra, M/S S.S. Con-Build Pvt. Ltd. ("**SSCBPL**") and M/S Suridhi Commercial Infra Pvt. Ltd. ("**Suridhi**") (Appellant Nos. 1, 2 and 3 respectively herein), were the Respondents in O.M.P.(I) (COMM.) 129/2026 in which the Impugned Order was passed.

FACTUAL MATRIX

2. Brief facts of the case, as are relevant for the purpose of the present Appeal, are as under:

3. Respondent Mr. Rajeev Behl was one of the three original promoters of the Realtech Group, along with Mr. Yogesh Gupta and Mr. Pankaj Dayal. On 05.12.2006, they formed a company called Realtech Infrastructure Limited ("**RIL**") with the three promoters as its equal shareholders.

4. Appellant No. 2 (SSCBPL) was incorporated in 2006, jointly owned and controlled by the Dhingra Group and the Realtech Group (each holding a 50% stake), as a Special Purpose Vehicle. Its primary purpose was to develop a commercial mall ("**Project**") on a plot allotted by the Delhi Development Authority ("**DDA**"). A perpetual lease deed was executed by DDA in favour of Appellant No. 2 (SSCBPL) on 10.05.2007, upon payment of about Rs. 100 crores. According to the Appellants, the funds infused in Appellant No. 2 (SSCBPL) by RIL and Appellant No. 1 (Mr. Bhupesh Kumar Dhingra) and his associates were used to pay the bid amount for the plot and construction of the Project.

5. Owing to certain inter se disputes, the three promoters of RIL on

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02.06.2011 entered into a Memorandum of Understanding ("**MOU-I**") to divide the businesses of the Realtech Group amongst themselves. The Project allegedly fell to the share of Rajeev Behl (Respondent). The Appellants were not signatories to MOU-I.

6. Pursuant thereto, on 20.09.2011, a second Memorandum of Understanding ("**MOU-II**") was executed between the Respondent, Appellant No. 1 and Appellant No. 2. It recognised the Respondent as the person entitled to represent RIL's interest in the Project. It is important to note that RIL was not a party to MOU-II. According to the Appellants, MOU-II was executed on the representation of the Respondent that MOU-I had been accepted by RIL and by the other two promoters.

DISPUTE RELATED TO MOU-I

7. Subsequently, certain disputes again arose between the three promoters of RIL with respect to the implementation of MOU-I. The matter accordingly came to be referred to arbitration before Justice (Retd.) S.B. Sinha as Sole Arbitrator. The Respondent Rajeev Behl, among other reliefs, sought the declaration that he was the 50% shareholder of Appellant No. 2 (SSCBPL) in place of RIL. He also sought a declaration that he was entitled to deal with the advance of Rs. 51.80 crores of RIL standing in the books of Appellant No. 2 (SSCBPL). During the period when the aforesaid arbitration was pending, a Settlement was arrived at between Rajeev Behl and Mr. Pankaj Dayal and they accordingly entered into a Settlement Agreement dated 16.12.2015.

8. The Ld. Arbitrator thereafter passed an award dated 28.01.2018,

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vide which he declared MOU-I as valid and binding. It was also held that the rights of the Realtech Group in the Project stood vested with Rajeev Behl. The award also accepted and incorporated the Settlement Agreement of 16.12.2015 in the award. However, it is the contention of the Appellants that the MOU-I Arbitration Award refused to declare the Respondent as the successor-in-interest of RIL and consequently they refused to transfer RIL's shareholding and advances to the Respondent. The MOU-I Arbitration Award was challenged by Mr. Pankaj Dayal under Section 34 of the Act but the same was dismissed on 29.10.2018 in O.M.P. (COMM.) 449/2018. The parties are in dispute with respect to the interpretation of the Award.

9. However, during the pendency of the abovesaid Arbitration, certain units of about 33,000 sq. ft. in the Project were leased to 'M/s Total Properties Maintenance LLP' by Appellant No. 2 SSCBPL vide lease deed dated 14.09.2015 at the instance of Rajeev Behl (Respondent herein). The entity M/s Total Properties Maintenance LLP is stated to be owned by the brother-in-law of Rajeev Behl. On 07.10.2015, RIL objected to the continuation of the Respondent (Rajeev Behl) on the board of Appellant No. 2 (SSCBPL) as its nominee and accordingly he was removed from the board of Appellant No. 2 (SSCBPL) on 14.01.2016. Respondent (Rajeev Behl), however, states that the Extraordinary General Meetings dated 14.12.2015 for appointment of a new director and 14.01.2016 for removal of Respondent as the director of Appellant No. 2 (SSCBPL) were held without notice to him.

10. Subsequently, the lease dated 14.09.2015 was cancelled unilaterally by SSCBPL vide letter dated 03.03.2016. The cancellation

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of the said lease deed was also challenged by Rajeev Behl in yet another arbitration before Justice (Retd.) P.K. Bahri, the Sole Arbitrator. The validity of the lease deed was upheld by the Arbitral Tribunal vide award dated 19.02.2018.

DIVESTMENT AGREEMENT

11. Subsequently, on 18.01.2018, a Divestment Agreement was executed. Under the said agreement, it is stated by the Appellants that RIL divested its stake in Appellant No. 2 (SSCBPL) and recovered a substantial part of its advances. By the said agreement, the stake of RIL in the Project was transferred to Appellant No. 3 (Suridhi). The Respondent claims that he became aware of the said agreement only on 16.07.2019 and alleges that it is a sham transaction on account of it being unstamped, unregistered and without board resolutions and executed solely with a view to defeat his rights. He also alleges that Appellant No. 3 (Suridhi) is a company owned and controlled by Appellant No. 1 (Mr. Bhupesh Kumar Dhingra) and his family members only.

OTHER PARALLEL PROCEEDINGS

12. In 2016, the Respondent filed several proceedings before the Company Law Board, now the NCLT. C.P. No. 13/2016 was dismissed vide order dated 23.08.2024 as the Respondent was held not to be a shareholder in Appellant No. 2 (SSCBPL) in his personal capacity. However, in Company Appeal (AT) No. 275/2024, the NCLAT directed on 29.08.2024 that status quo be maintained as to the share position and the properties of Appellant No. 2 (SSCBPL) as on the date of the NCLT judgment. C.P. No. 55/2016, concerning rectification of

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the register of Appellant No. 2, is also stated to be pending.

13. It is important to note that several other proceedings were filed over the years by the Parties. The lease of Appellant No. 2 (SSCBPL) was cancelled by DDA. Appellant No. 2 (SSCBPL) challenged this cancellation in W.P.(C) 5217/2022 and W.P.(C) 3364/2023. Its possession was protected by orders dated 31.03.2022 and 13.04.2022. In W.P.(C) 6868/2023, filed by the Respondent, the Sub-Registrar was restrained on 19.05.2023 from registering further documents for the Project. Appellant No. 2 (SSCBPL) applied for vacation of the order dated 19.05.2023 in W.P.(C) 6868/2023. Following a decision of DDA dated 25.11.2024, the lease of Appellant No. 2 (SSCBPL) was restored and a Conveyance Deed dated 20.12.2024 was executed by DDA in favour of Appellant No. 2 (SSCBPL). The Respondent states that he came to know of it on 08.09.2025 and the same has been challenged by him in W.P.(C) 5470/2025. Allegations regarding registration of documents and restoration of the lease have also led to W.P.(Crl.) 844/2025. Certain contempt petitions are also stated to be pending between the parties.

14. In 2023, an enforcement petition, O.M.P.(ENF.)(COMM.) 140/2023, was filed by the Respondent in respect of the MOU-I Arbitration Award. The Respondent also filed a Petition under Section 9, O.M.P.(I)(COMM.) 259/2023, against RIL and others. Interim protection in respect of the property at City Emporium Mall, Chandigarh was granted therein *vide* order dated 14.08.2023. The petition was subsequently disposed of as infructuous on 22.07.2025, while directing that the interim protection already granted would

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continue till disposal of the enforcement petition.

SECTION 9 APPLICATION AND THE IMPUGNED ORDER

15. In light of the aforementioned developments, the Respondent invoked arbitration vide legal notice dated 18.02.2026 under Clause 9 of MOU-II. Simultaneously, he filed a Section 9 application by way of O.M.P.(I) (COMM.) 129/2026 in which the Impugned Order was passed. In the application, the Respondent sought to restrain the Appellants from creating third-party rights in, or otherwise dealing with, 50% of the saleable area of the Project.

While disposing of the said application vide order dated 03.07.2026, it was held by the Ld. Single Judge that the documents relied on by the Respondent disclosed a bona fide and arguable claim, sufficient for establishing a prima facie case at the Section 9 stage. The objections raised by the Appellants herein were held to be disputed questions which related to the effect of the MOU-I Arbitration Award and MOU-II and the Divestment Agreement. The issue of limitation was also held to be a mixed question of law and fact to be adjudicated by the Arbitral Tribunal.

16. It was further noted that substantial inventory had already been sold or allotted and that multiple proceedings were pending between the parties and thus creation of any further third-party rights would complicate the enforcement of any eventual award. The balance of convenience was thus held to be in favour of the Applicant (Respondent herein). It was also observed that if further third-party rights in the Project are created, the same would cause irreparable injury and prejudice to the Applicant. The learned Single Judge also held that

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Section 9 powers are not limited to parties to the arbitration agreement only. However, the question whether Appellant No. 3 (Suridhi) is bound by the arbitration agreement was left for the Arbitral Tribunal to decide.

17. The Appellants have thus preferred this appeal against this Impugned Order.

18. Additionally, it is important to note that initially the interim protection/injunction granted by the Impugned Order was to hold good till the constitution of the Arbitral Tribunal. However, vide order dated 18.08.2026 passed on an application by Rajeev Behl seeking clarification/modification, the learned Single Judge of this Court further extended the interim protection/injunction granted by the Impugned Order till the adjudication of the application under Section 17 of the Arbitration and Conciliation Act, 1996 by the Arbitral Tribunal. The said order dated 18.08.2026 has, however, not been assailed in the present Appeal.

OBJECTIONS BY THE APPELLANTS

19. We now turn to the objections raised by the Appellants herein against the Impugned Order. It has been challenged on the following grounds:

a) It has been contended that the Respondent made no independent investment in Appellant No. 2, either towards shareholding or towards area in the Project. The investment was made by RIL. The claim of the Respondent to the Project rests entirely on his claim to the rights, title and interest of RIL under MOU-I.

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b) It is further submitted by the Appellants that the findings and the operative part of the MOU-I Arbitration Award were not properly considered by the learned Single Judge. It has been contended that the MOU-I Arbitration Award does not declare the Respondent to be the successor-in-interest of RIL in respect of its shareholding and advances in Appellant No. 2.

c) It has also been contended that the subsequent conduct of the Respondent was not considered by the Ld. Single Judge. The MOU-I Arbitration Award was not taken up for execution for nearly five and a half years, and implementation of MOU-II was also not sought against Appellant No. 2.

d) Furthermore, it has been contended that the cause of action, if any, lies against RIL and not against the Appellants. By the Divestment Agreement, the disputed area of the Project and the rights thereto were surrendered to Appellant No. 3, and the advances were received by RIL. It is stated that this action of RIL has not been questioned by the Respondent.

e) Additionally, the Ld. Single Judge erred in holding the claims to be within limitation, despite the alleged cause of action having arisen on 03.03.2016, upon cancellation of the lease, and 18.01.2018, upon execution of the Divestment Agreement, of which the Respondent had knowledge since 16.07.2019. It was further contended that the Ld. Single Judge wrongly placed the onus upon the Appellants to dispute the Respondent's claims.

f) It has also been submitted that the Ld. Single Judge failed to appreciate that, despite substantial portions of the Project having

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already been sold to third parties, the injunction was extended to cover such areas without the concerned third parties being impleaded.

g) The settled principles governing the grant of interim injunctions, as laid down in ***Colgate Palmolive (India) Ltd. v. Hindustan Lever Ltd***., (1999) 7 SCC 1, and ***American Cyanamid Co. v. Ethicon Ltd***., [1975] A.C. 396, with regard to the balance of convenience, irreparable injury and adequacy of damages as an alternative remedy are stated not to have been properly considered.

h) Additionally, the Ld. Single Judge failed to take into consideration the earlier proceedings, particularly O.M.P.(I)(COMM.) No. 259/2023 and O.M.P.(ENF.)(COMM.) No. 140/2023. According to the Appellants, no interim relief had been granted in the former proceedings and this Court had declined to issue notice to RIL in the enforcement proceedings.

ANALYSIS AND FINDINGS

20. We have heard the arguments and carefully perused the record.

21. At the outset, it will be pertinent to mention that the learned Single Judge while deciding the application under Section 9 of the A&C Act vide order dated 03.07.2026 has elaborately dealt with the principal contentions raised by the Appellants herein. All the three essential ingredients which are taken into consideration before granting interim relief have been specifically dealt with viz. (i) the existence of a prima facie case in favour of the Petitioner, (ii) balance of convenience in favour of grant of interim relief and (iii) irreparable injury or loss likely to be suffered by the Petitioner in case no interim relief is

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granted. It is also well settled that an appellate court would not interfere with the exercise of discretion by the court of first instance merely because another view may be possible. Interference would be warranted where the discretion is shown to have been exercised arbitrarily, capriciously or perversely, or contrary to the settled principles governing grant of interim relief. Reference in this regard may be made to ***Wander Ltd. v. Antox India (P) Ltd.***, 1990 Supp SCC 727.

22. However, before adverting to the various grounds raised in the present Appeal, it will also be worthwhile to mention that the parties have been engaged in a series of proceedings *inter se*, as noticed above and also elaborately mentioned by the learned Single Judge in the Impugned Order.

23. Insofar as the claim of the Appellants that the Respondent Rajeev Behl never acquired the interest of RIL in Appellant No. 2 is concerned, the learned Single Judge, while dealing with the said contention, has observed by way of a prima facie view that the same raises a serious dispute between the parties which would fall for adjudication in the proposed arbitration proceedings. In respect of the said disputes, a Petition captioned ARB.P. 919/2026 under Section 11 of the Act has also been filed. It is also undisputed that the Respondent was initially inducted into Appellant No. 2 as a representative of RIL and that certain units in the Project were subsequently leased by Appellant No. 2 to M/s Total Properties Maintenance LLP at the instance of the Respondent.

24. Thus, it is apparent that the aforesaid sequence of events raises serious disputes between the parties which are amenable to final

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adjudication in the arbitral proceedings. It cannot, therefore, be said at this stage that the Respondent Rajeev Behl had no locus standi to file a Petition under Section 9 of the Act. The existence of the arbitration agreement under MOU-II as between the Respondent and Appellant Nos. 1 and 2 is not in dispute. Whether Appellant No. 3 is bound by the arbitration agreement has been left open for determination in the arbitral proceedings. Thus, it cannot be said that the Respondent had no right to seek interim protection under Section 9 of the Act pending adjudication of the disputes.

25. The contention that the Respondent's cause of action, if any, lies only against RIL also cannot be accepted at this stage. MOU-II itself was executed between the Respondent and Appellant Nos. 1 and 2. The subsequent cancellation of the lease and the Divestment Agreement also form part of the disputes raised by the parties regarding the Project. Whether the Respondent ultimately succeeds in establishing an enforceable right is a matter for adjudication in the arbitral proceedings. At the stage of considering interim protection under Section 9 of the Act, his claim cannot be held to be *ex facie* untenable.

26. As regards the issue of limitation raised by the Appellants herein, in the facts of the present case, the learned Single Judge was of the view that the issue of limitation involves disputed questions of law and fact and ought to be determined by the Arbitral Tribunal after the parties get a chance to lead their respective evidence. Relying on the principles in ***ITW Signode India Ltd. v. Collector of Central Excise***, (2004) 3 SCC 48 and ***Uttarakhand Purv Sainik Kalyan Nigam Ltd. v. Northern Coal***

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Field Limited, (2020) 2 SCC 455, the Court left the said issue for determination by the Arbitral Tribunal.

27. As regards the contention regarding the duration of the interim protection, we note that although *vide* order dated 03.07.2026 the interim relief was granted till the constitution of the Arbitral Tribunal, the same was subsequently extended vide order dated 18.08.2026 till the adjudication of the application under Section 17 of the Act by the Arbitral Tribunal. The order dated 18.08.2026 has not been challenged in the present Appeal. We therefore find no ground to interfere with the Impugned Order on this count.

28. The Appellants have also contended that substantial portions of the Project already stand transferred in favour of third parties who were not before the learned Single Judge. In this regard, it is pertinent to note that the interim protection granted by the learned Single Judge operates against the Appellants and is intended to restrain the creation of further third-party rights in respect of the subject matter of the dispute. The learned Single Judge has observed that, having regard to the nature and number of proceedings pending between the parties and the fact that substantial inventory has already been sold or allotted, creation of further third-party rights may complicate the enforcement of any eventual arbitral award. We find no infirmity in the grant of such protection for preservation of the subject matter pending arbitration. Insofar as any existing transferee claims that an independent right already vested in it is prejudicially affected by the interim order, such right would remain open to be asserted by the concerned transferee in accordance with law.

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29. We are, therefore, in agreement with the learned Single Judge insofar as the interim protection restrains the Appellants from creating further third-party rights pending consideration of the matter by the Arbitral Tribunal. The Impugned Order cannot, however, be understood as adjudicating upon or prejudicing any independent rights already acquired by third parties who were not before the learned Single Judge. Any such rights, if asserted, would necessarily have to be considered in accordance with law.

30. The learned Single Judge has also observed that the jurisdiction under Section 9 of the Act is not, in all circumstances, confined to the grant of relief which has no effect upon a non-signatory. We do not consider it necessary to examine that proposition any further in the present Appeal. The restraint under the Impugned Order is directed against the Appellants and persons claiming through or under them for preservation of the subject matter of the proposed arbitration.

31. As regards the interpretation and effect of the earlier arbitral awards relied upon by the parties, the learned Single Judge observed that the rival contentions raise disputed questions regarding the rights claimed under MOU-I and MOU-II, which ought not to be finally determined at the stage of proceedings under Section 9 of the Act. The learned Single Judge was of the view that, without entering into the merits of those rival claims, the material placed on record disclosed a *prima facie* case in favour of the Respondent Rajeev Behl. The balance of convenience was also found to be in his favour and it was observed that, in the absence of interim protection, he may suffer irreparable injury/loss. The reliance placed by the Appellants upon

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O.M.P.(I)(COMM.) No. 259/2023 does not advance their case. Interim protection in respect of the Chandigarh property had in fact been granted in those proceedings and, when the petition was disposed of as infructuous on 22.07.2025, the said protection was continued till disposal of the enforcement petition. Likewise, the order dated 08.08.2023 in O.M.P.(ENF.)(COMM.) No. 140/2023 merely directed, at the initial stage, issuance of notice to Judgment Debtor Nos. 1 and 2. The said order does not contain any adjudication upon the liability of RIL or upon the entitlement of the Respondent to interim protection in the present proceedings.

32. Thus, in view of the aforesaid discussion, we are of the considered opinion that the Appellants have failed to demonstrate any perversity, material error in the appreciation of the facts, or misapplication of the settled principles governing grant of interim relief, so as to warrant interference with the discretion exercised by the learned Single Judge. The present Appeal is, accordingly, dismissed.

33. In the facts and circumstances of the case, there shall, however, be no order as to costs.

BHARAT PARASHAR, J.

ANIL KSHETARPAL, J.

NOVEMBER 5th, 2026/DH/KT

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