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

% Judgment Reserved on: *22.07.2026*
Judgment delivered on: *14.08.2026*
Judgment uploaded on: *14.08.2026*

\+ FAO(OS) (COMM) 236/2023 CM APPL. 55402/2023

OMAXE LTD. .....Appellant

versus

MR. JOGINDER SINGH NIJJAR & ANR. .....Respondents

Advocates who appeared in this case

For the Appellant	:	Sh. Ramesh Singh, Senior Advocate with Mr. Mukti Bodh, Ms. Mala Diwadi and Ms. Nanya Hage, Advocates with Ms. Neha Chaturvedi, AR
For the Respondents	:	Ms. Shobhana Takiar with Mr. Shivam Takiar, Mr. Prateek Dhir and Mr. Kuljeet Singh, Advocates

CORAM:
HON'BLE MR. JUSTICE V. KAMESWAR RAO
HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

JUDGMENT

MANMEET PRITAM SINGH ARORA, J.

1. The present appeal has been preferred under Section 37 of the Arbitration and Conciliation Act, 1996 [‘Act of 1996’], assailing the judgment dated 19.07.2023 [‘impugned judgment’] passed by the learned

Single Judge in OMP (COMM.) No. 203/2021 titled **Omaxe Ltd. v. Joginder Singh Nijjar & Anr.**, dismissing Appellant's challenge under Section 34 of the Act of 1996 to the Arbitral Award dated 20.03.2020 ['Arbitral Award'].

1.1. The dispute arises out of an Allotment Agreement dated 02.05.2008 ['Allotment Agreement'] and Addendum dated 02.05.2008 ['Addendum'] executed between the parties in relation to allotment of proposed Commercial Unit No. 26 in the under-construction 'Omaxe Novelty Mall', in Amritsar. The Respondent Nos. 1 and 2 terminated the said agreements *vide* legal notice dated 18.04.2013 and lodged a claim for refund of entire principal amount along with interest. The parties were referred to arbitration.

1.2. The Arbitral Tribunal was presided over by a retired Supreme Court Judge, Justice B.S. Chauhan (Retd.) as the Sole Arbitrator ['Arbitral Tribunal'], appointed by the Supreme Court.

1.3. The Arbitral Tribunal *vide* Award dated 20.03.2020 passed an order for refund, in favour of the Respondents, for the principal amount of Rs. 3,35,04,650/- plus pendente lite interest computed at Rs. 4,16,94,674/-. Thus, the total sum awarded is Rs. 7,51,99,324/-. The Arbitral Tribunal awarded future interest at 12% on this total sum awarded, from the date of the Arbitral Award till the date of realization, plus costs of Rs. 25 lakhs, in favour of the Respondents. The Arbitral Tribunal rejected remaining claims of the Respondents, and the said rejection has attained finality. The Arbitral Tribunal also rejected the counter-claims of the Appellant.

1.4. The Appellant challenged the Arbitral Award dated 20.03.2020 in the

Section 34 petition, which has been dismissed by the learned Single Judge by the impugned judgment. Aggrieved by the said refusal to set aside the Arbitral Award, the Appellant has preferred the present appeal.

FACTS

2. Facts stated in the appeal are as under: -

2.1 The Appellant, a real estate development company, undertook the development of a commercial project, namely 'Omaxe Novelty Mall' at Lawrence Road, in Amritsar, pursuant to a Collaboration Agreement dated 23.05.2005 executed with one M/s Novelty Associates Pvt. Ltd. The project was sanctioned by the Municipal Corporation, Amritsar ('Municipal Corporation') on 25.05.2006 for construction up to a height of 30 meters, following which construction for the commercial project commenced.

2.2 The Respondents applied for allotment of a Commercial Unit in the commercial project on 10.02.2007. Between 10.02.2007 and 26.11.2007 a sum of Rs. 10,05,13,952/- (i.e., 95% of basic sale price of Rs. 10,58,04,160) of the Commercial Unit No. 26 stood paid to the Appellant. The entire payment was made from the account of Respondent No. 1.

2.3 *Vide* Allotment Agreement dated 02.05.2008, Commercial Unit No. 26 located on 04th and 05th floor having an approximate super area of 2601.263 sq. mts./28,000 sq. ft. was signed between the parties. The Allotment Agreement was issued in favour of the Respondent No. 1 and 2 at 16.665% each, and also in the names of Mr. Jatinder Singh Chatta at 16.665%, Mr. Mohinder Singh Sanghera at 16.665% and Mr. Ashwani Kumar Uppal at 33.34% ['five co-allottees']

Thus, Respondent No. 1 and 2 together held 33.33% allotment rights in the Commercial Unit No. 26.

2.4 Simultaneously, an Addendum dated 02.05.2008 to the Allotment Agreement was executed between the five co-allottees and the Appellant, under which the Appellant agreed to pay monthly assured return of Rs.9,84,199/- till the offer of possession of the Commercial Unit No. 26. The said amount was calculated as return of 9% on the aforesaid payment of Rs.10,05,13,952/- (i.e., 95% of the basic sale consideration).

It is stated that the said assured monthly payment was made by the Appellant with effect from 29.11.2007 and continued till 30.04.2010. No payment was made thereafter.

2.5 It is stated that the Allotment Agreement at Clause 26(a) expressly stipulated a construction period of 36 months from the date of signing of the Allotment Agreement, subject to *force majeure* and other contractual conditions.

The said 36 months of the construction period, as per the Allotment Agreement dated 02.05.2008, expired on 01.05.2011.

2.6 It is a matter of record that Appellant was unable to complete the construction by 01.05.2011 [i.e., the stipulated date] and in these facts the Respondents issued a legal notice dated 18.04.2013 cancelling the Allotment Agreement and seeking refund of its principal amount along with interest. It also sought reference to arbitration.

2.7 It is stated that during the course of construction, the Archaeological Survey of India [‘ASI’] objected to the project on the ground that it fell within the regulated area of the Maharaja Ranjit Singh Summer Palace, a protected monument, and directed that construction beyond height of 15 meters be stopped. According to the Appellant, these objections were raised by ASI only after the Municipal Corporation had sanctioned the building plans and construction had substantially progressed. The Appellant contends that it had obtained all requisite approvals from the Municipal Corporation and was unaware of any requirement to obtain prior clearance from the ASI. Consequently, the project remained stalled from April 2007 until February 2012 while the Appellant pursued approvals before the ASI, which ultimately permitted construction up to height of 24 meters, along with an additional 2 meters for ancillary structures, *vide* permission 22.02.2012. Thereafter, revised building plans were sanctioned, construction resumed, and a Completion Certificate for the Commercial Unit No. 26 was issued on 08.07.2015.

As per the Appellant, the stoppage of the construction between 2007 to 2012 on account of the objections of ASI should be construed as *force majeure* and this period should be excluded for computing the period of 36 months stipulated under Clause 26(a) of the Allotment Agreement.

2.8 Appellant contends that following the due completion of the project, the Appellant offered possession of the Commercial Unit No. 26 to the Respondents *vide* letters dated 16.07.2015, 21.11.2015 and 18.02.2017 and called upon them to clear outstanding dues and take possession. The Appellant asserts that despite repeated reminders, the Respondents wilfully failed to take possession, allegedly due to the downturn in the real estate market. The Appellant further claims that although the project remained delayed due to circumstances beyond its control, it nevertheless paid approximately Rs. 2.85 crores towards assured monthly returns as per the Addendum during the period of ASI restrictions, despite there being no contractual obligation to do so in view of the *force majeure* conditions.

2.9 It is a matter of record that the Completion Certificate dated 08.07.2015 was cancelled on 29.01.2016. The said cancellation was assailed before High Court of Punjab and Haryana at Chandigarh, which stayed the cancellation *vide* order dated 17.02.2016. The Completion Certificate was ultimately restored on 31.07.2019.

2.10 The Appellant *vide* letters dated 21.11.2015 and 18.02.2017 insisted that Respondents must perform the Allotment Agreement and accept possession of Commercial Unit No. 26. However, Respondents did not accept the said offers and sought reference of the disputes to arbitration seeking refund of the sale consideration, interest, unpaid assured returns, delay compensation, damages and costs.

2.11 The Supreme Court vide order dated 17.09.2018 appointed Justice B.S. Chauhan (Retd.) as the Sole Arbitrator. The Appellant contested the claims and filed counter-claims seeking, inter alia, refund of assured returns paid during the *force majeure* period, holding charges, specific performance directing the Respondents to take possession, forfeiture of earnest money, damages and costs.

2.12 After recording evidence, the Arbitral Tribunal passed the Arbitral Award dated 20.03.2020 awarding refund of the claim of principal amount and interest plus costs as set out at paragraph 1.1 of this judgment in favour of the Respondents. The other claims of the Respondents were dismissed.

The counter-claims of the Appellant were rejected.

SUBMISSIONS OF THE PARTIES

3. Sh. Ramesh Singh, learned senior counsel for the Appellant assails the impugned judgment and the Arbitral Award on the ground that they are patently illegal, contrary to the terms of the contract and the substantive law of India, engrafted in the Indian Contract Act, 1872 [‘Act of 1872’].

3.1 It is contended that the Arbitral Tribunal erred in upholding the Respondents’ termination of the Allotment Agreement dated 02.05.2008 and directing refund of the sale consideration with interest, solely on the premise of delay in completion of the project from 2011 to 2015, despite the undisputed position that the project had ultimately been completed and possession had been offered to the Respondents in 2015.

3.2 It is contended that the Arbitral Tribunal failed to appreciate that time was never the essence of the Allotment Agreement, a finding which the Arbitral Tribunal itself recorded while deciding Issue No. 3 of the Arbitral Award. The Respondents had never issued any notice making time the essence of the contract; further, the Addendum executed contemporaneously with the Allotment Agreement expressly provided for payment of Rs.9,84,199/- per month as assured monthly returns until the offer of possession, thereby demonstrating that the parties had consciously contemplated the possibility of delay and contractually provided the consequences thereof.

It is stated that Clause 26(e) of the Allotment Agreement also stipulated compensation of Rs. 10 per sq. ft. of super area, per month, for delay attributable to the Appellant, thereby excluding any right of unilateral termination to the Respondent. Reliance is placed upon Section 55 of the Act of 1872 and relies on the decisions of the Supreme Court in **Bangalore Development Authority v. Syndicate Bank**[1] and **IREO Grace Realtech Pvt. Ltd. v. Abhishek Khanna**[2], to submit that once possession had been offered after completion of the project, the Respondents were bound to accept possession and could only claim contractual compensation for delay.

3.3 The Appellant further submitted that, in any event, the delay attributable to the Appellant stood substantially reduced after excluding the period during which construction of the project remained stalled due to restrictions imposed by the ASI. It is argued that the cancellation of the ASI's No Objection Certificate ['NOC'] between 03.07.2008 and 22.02.2012 constituted a *force majeure* event squarely covered under Clause 26(b) of the Allotment Agreement, as the stoppage of construction was beyond the Appellant's reasonable control. It is submitted that the Arbitral Tribunal, however, erroneously declined to extend the benefit of this *force majeure* period (i.e., 2008 to 2012) on the ground that the ASI intervention, in the project, predated the Allotment Agreement, while ignoring that the operative cancellation of the NOC occurred only after execution of the Allotment Agreement with the Respondents. It is stated that the Arbitral Tribunal also overlooked evidence showing that the Respondents were aware of the ASI proceedings and that the ASI itself subsequently *vide* NOC dated 22.02.2012 permitted construction up to a greater height, thereby demonstrating that the earlier restrictions on construction were temporary in nature.

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[1] 2007 (6) SCC 711
[2] 2021 (3) SCC 241

3.4 It is also submitted that the Arbitral Award is legally unsustainable as the notice of termination dated 18.04.2013 was issued only by two of the five co-allottees, despite the allotment of the Commercial Unit No. 26 being joint and indivisible. The remaining co-allottees were neither parties to the termination nor impleaded in the arbitral proceedings. It is contended that the Arbitral Tribunal erred in holding that the non-joinder of the remaining co-allottees was not fatal, resulting in an Award which neither effectively terminated the joint Allotment Agreement nor completely discharged the Appellant from its obligations under the Allotment Agreement.

3.5 The Appellant also challenges the award of interest on the refund of the principal amount, contending that both the rate and the period for which interest has been granted are contrary to the contract and settled law. It is argued that the *force majeure* period (i.e., 2008 to 2012) and the period after the offer of possession (i.e., 16.07.2015 onwards) ought to have been excluded while computing interest; further, the contractual stipulation contemplated interest only at the rate of 6%, whereas the Arbitral Tribunal awarded interest at 14% for pre-reference period and pendente lite without assigning adequate reasons.

It is submitted that the substantial amount of Rs. 2,85,71,431/- was already paid by the Appellant (i.e., between 2007-2010) towards assured monthly returns under the Addendum, the same ought to have been adjusted against interest amount awarded for the pre-reference period, particularly since the termination of the Allotment Agreement would necessarily result in rescission of the Addendum as well.

3.6 It is submitted that the Arbitral Tribunal wrongly rejected the

Appellant's counter-claims seeking specific performance, recovery of holding charges, taxes and other dues payable after the offer of possession on the ground of limitation. It is argued that the cause of action arose only upon the Respondents' failure to take possession after the renewed offer dated 29.06.2016, rendering the counter-claims well within limitation.

4. Ms. Shobhana Takiar, learned counsel for the Respondents states that the Appellant herein has made a statement on 11.03.2024 before the Executing Court in execution petition OMP (ENF.) (COMM) 65/2021 titled **Joginder Singh Nijjar and Anr. v. M/s Omaxe Ltd**. that it shall pay the awarded amount in seven (7) instalments. She states that there is no stay of execution granted in these proceedings and yet the Appellant has failed to pay the awarded amount.

4.1. She states that Appellant is mischievously relying upon order dated 13.05.2025 passed in Crl. Appl. No. 2567-2568/2025. She submits that the said order only pertains to Respondent No.1 and has no concern with Respondent No. 2. She states that Respondent No. 1 has already availed its legal remedies against the order declaring it to be a proclaimed offender. She states that the said proceedings do not entitle the Appellant to withhold the payments due and payable under the Arbitral Award.

4.2. She states that the remaining three (3) allottees have also initiated arbitration proceedings against the Appellant for refund of the principal amount. She states that similar awards on identical findings have been passed against the Appellant directing refund in favour of the allottees. However, Appellant has elected only to challenge the subject Arbitral Award.

5. In response, learned senior counsel for the Appellant states that no communication has been received by the Appellant from investigating agency for attachment of the sums payable under the Arbitral Award in pursuance of the order dated 13.05.2025. He states that Appellant has not made payments due under the Arbitral Award on account of its personal knowledge of the order dated 13.05.2025 passed by the Supreme Court in Crl. Appl. No. 2567-2568/2025. He states that Appellant is ready and willing to deposit the amounts due and payable under the Arbitral Award with the Executing Court.

FINDINGS AND ANALYSIS

6. This Court has heard the learned counsel for the parties and perused the record.

7. The core legal challenges raised by the Appellant against the impugned judgment are:-

a. That the impugned judgment fails to appreciate that the Allotment Agreement and the Addendum expressly contemplated delay in completion and provided for payment of assured returns at 9% as compensation for delayed possession. Consequently, once the project stood completed and possession had been offered, the Respondents were not entitled to terminate the Allotment Agreement and seek refund of the sale consideration. It is stated that time was not the essence of the contract. The Appellant submits that the impugned judgment is thus contrary to the principles embodied in Section 55 of the Act of 1872.

b. The delay in completion of the project (from 2008 to 2012) was a *force majeure* event (Section 56 of the Act of 1872) arising from restrictions imposed by the ASI, after construction began, which were beyond the Appellant's reasonable control.

c. The rejection of the Appellant's counter-claims was wrongly held to be barred by limitation. It is submitted that the cause of action arose only upon the Respondents' failure to take possession after the renewed offer of possession dated 29.06.2016 and, therefore, the counter-claims were well within the prescribed period of three (3) years.

d. That the learned Single Judge further erred in sustaining the award of interest at the rate of 14%, contrary to the contractual stipulation providing for interest at 6% or the Addendum providing for 9%.

8. The Arbitral Tribunal dealt with the disputes issue-wise and recorded the following findings; the Tribunal held that the Appellant had commenced the project without obtaining the mandatory NOC from ASI despite being aware of the statutory requirement. The Appellant knew about ASI's objections even before execution of the Allotment Agreement and inspite of the same continued accepting bookings from customers without disclosure of its disputes with ASI. It consequently rejected the plea of *force majeure*, holding that the alleged impediment was pre-existing and attributable to the Appellant's own default. The Tribunal further held that the Appellant had breached the Allotment Agreement by failing to comply with statutory requirements, delaying completion of the project, and suppressing material facts relating to the ASI proceedings and cancellation of the Completion Certificate.

The Tribunal held that time was not the essence of the contract in view of the contractual provisions permitting extension of time and the parties' conduct and found that the Addendum dated 02.05.2008 formed an integral part of the original Allotment Agreement.

The Tribunal further held that the claims of the Respondents were within limitation, as arbitration commenced upon receipt of the notice invoking arbitration, and that the other co-allottees were not necessary parties, though the Respondents' were entitled only to their proportionate share corresponding to their 33.33% interest in the allotted Commercial Unit No. 26. On merits, the Tribunal directed refund of the Respondents' proportionate investment of Rs. 3,35,04,650/- along with pre-award and post-award interest and costs, while rejecting the remaining monetary claims. The Tribunal also dismissed the Appellant's counter-claims to be barred by limitation as no dispute had been validly raised or arbitration was invoked prior to filing them.

9. The learned Single Judge, has upheld the findings of the Tribunal, consequently upholding the Arbitral Award.

10. During oral arguments, the emphasis of the learned Senior Counsel for the Appellant was on Section 55 of the Act of 1872. He contended that since the Addendum contemplated assured return of 9% on the principal amount, the Respondents were duly compensated and could not have terminated the Allotment Agreement due to the delay. He stated that since the Arbitral Tribunal had agreed that time was not of the essence of the Allotment Agreement, the termination of the Allotment Agreement by Respondents could not have been upheld and therefore, the Arbitral Award is contrary to Section 55 of the Act of 1872.

11. In this regard, we note that the Appellant's challenge to the Arbitral Award on the ground that it is contrary to Section 55 of the Act of 1872 is not, by itself, a ground available for setting aside an Arbitral Award under Section 34 of the Act of 1996, after the amendments introduced by the Arbitration and Conciliation (Amendment) Act, 2015. As explained by the Supreme Court in **Ssangyong Engineering and Construction Company Limited v. National Highways Authority of India (NHAI)**[3], the post-amendment scope of judicial interference with a domestic Arbitral Award is significantly circumscribed. A mere allegation of erroneous application or contravention of substantive law does not furnish a valid ground for interference unless such illegality goes to the root of the matter and falls within the limited ambit of 'patent illegality' under Section 34(2A), or attracts the narrow confines of the 'public policy of India' ground under Section 34(2)(b)(ii).

12. In the facts of the present case, the factual premise underlying the Appellant's reliance on Section 55 of the Act of 1872 is itself absent. The Appellant contends that since the Respondents were entitled to assured returns at the rate of 9% under the Addendum dated 02.05.2008, they were adequately compensated for the delay and were therefore not entitled to terminate the Allotment Agreement. However, it is an admitted position that the Appellant unilaterally discontinued payment of the assured returns with effect from 01.05.2010, whereas the Respondents terminated the Allotment Agreement only on 18.04.2013. By its own conduct, the Appellant rendered the assured return Clause in the Addendum inoperative and cannot now rely

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[3] (2019) 15 SCC 131, at Paragraph 36 to 39

upon the same as a defence to the Respondents' termination. Indeed, Section 54 of the Act of 1872 embodies the principle that, a party who fails to perform its reciprocal promise cannot insist upon performance by the other party. Having itself discontinued payment of the assured returns, the Appellant forfeited any right to compel the Respondents to continue with the allotment and accept possession. Therefore, even on the Appellant's own construction of Section 55 of the Act of 1872, the contention is devoid of factual and legal merit. We, therefore, find no infirmity in the Arbitral Award upholding the Respondents' termination of the Allotment Agreement or in the judgment of the learned Single Judge.

The hollowness of this submission of the Appellant can also be gauged from the fact that the Appellant has failed to pay the awarded amounts despite their being no stay on the award. The conduct of the Appellant in not depositing the awarded amount with the Executing Court and discontinuing payment of the assured returns under the Addendum after 2010 all evidence its lack of readiness and willingness to pay compensation to the Respondents. The Appellant by its own conduct is disentitled from relying upon Section 55 of the Act of 1872.

13. With respect to the Appellant's challenge to the findings of the Arbitral Tribunal opining that the suspension of the project between 2008 to 2012 cannot be construed as a *force majeure* period, we find no merit in the said submission. The Arbitral Tribunal has considered this issue in detail while deciding issue nos. (1) and (6) at paragraphs 29 to 49 of the Arbitral Award. The Arbitral Tribunal after perusing the correspondence exchanged between the Appellant and ASI concluded that the Appellant was fully aware of its statutory obligation to obtain NOC from ASI before

commencing construction. The Arbitral Tribunal concluded that the commencement of construction by the Appellant without the NOC was impermissible in law. The Arbitral Tribunal held that the Appellant's action of entering into Allotment Agreement with the Respondents on 02.05.2008, with full notice that it does not have the requisite NOC from ASI, disentitles the Appellant from claiming the period of 2008-2012, when construction could not be carried out due to disputes with the ASI, as a *force majeure* event. It is a matter of record that ASI has granted NOC on 27.07.2007 for 15 meters height, thus, the Appellant's attempt to thereafter construct a building which 30 meters height was obviously illegal and contrary to the said NOC. In our considered opinion, the said finding of fact returned by the Arbitral Tribunal rejecting the Appellant's submission that the period of suspension of construction from 2008 to 2012 was a *force majeure* event, is unexceptional and is in conformity with the evidence on record.

14. In view of our finding that the Arbitral Tribunal rightly upheld the termination of the Allotment Agreement by the Respondents and rightly ordered the refund, the reliefs sought by the Respondents for specific performance and payment of holding charges, damages etc. cannot be granted even on merits. On the issue of limitation, the Arbitral Tribunal has discussed the facts in detail at paragraph 101 and 102 of the Arbitral Award and we find no ground to interfere in the said finding that the counter-claim is barred by limitation.

15. This brings us to the issue of award of interest on the principal amount by the Arbitral Tribunal at 14%. Learned Senior Counsel for the Respondent has contended that the contractual stipulation at Clause 26(f) of

the Allotment Agreement contemplates refund of the principal amount with 6% interest. He states that even if, the terms of the Addendum are taken into consideration, where assured return were to be paid at 9% interest, this could have been the highest rate at which the interest should have been awarded. The Arbitral Tribunal has returned its finding on award of interest at paragraph nos. 80 to 83 of the Arbitral Award. The Arbitral Tribunal considered various clauses of the Allotment Agreement which reserve a right to the Appellant to recover outstanding dues from the allottees at interest rate varying from 18% to 24%. The Arbitral Tribunal noted in the facts of this case, the transaction between the parties has been tainted by suppression of material information by the Appellant from the Respondents. The Arbitral Tribunal was of the opinion that the Respondents had been made to run from pillar to post from 2008 to 2020 by the Appellant. In this conspectus, the Arbitral Tribunal after detailed deliberation held that w.e.f. 01.05.2011 till the date of Award i.e., 20.03.2020, the Respondents will be entitled to 14% simple interest per annum on the principal sum of Rs. 3,35,04,650/-. The interest for this period was computed and quantified as Rs. 4,16,94,674/-. The Arbitral Tribunal further directed that Respondents will be entitled to interest at 12% on the total sum of Rs. 7,51,99,324/- (Rs. 3,35,04,650 + Rs. 4,16,94,674) from the date of realization.

We find no grounds for interfering in the aforesaid determination by the Arbitral Tribunal. Clause 26(f) of the Allotment Agreement on which, the Appellant places reliance can have no application as the said Clause contemplates delay in completion due to *force majeure*. However, in the facts of this case, the plea of *force majeure* has been decided against the Appellant. The Arbitral Tribunal has taken into consideration the different clauses of the Allotment Agreement which provide levy of interest rates between 18% to 24% and has thereafter, consciously with due deliberation awarded 14% interest. We may note that despite the disapproval of the Appellant's conduct vis-à-vis the Respondents recorded by the Arbitral Tribunal at paragraph 82 of the Award, the Appellant has failed to pay the awarded amount to the Respondents like a law-abiding citizen. The Respondents have been compelled to file an execution petition OMP(ENF.) (COMM) 65/2021 titled **Joginder Singh Nijjar and anr v. M/S Omaxe Ltd.** and despite there being no stay granted by this Court, the Appellant has not paid the decretal amount. The Appellant's disregard for legal process is writ large.

16. The Appellant during arguments had sought to rely upon the order dated 13.05.2025 passed by the Supreme Court in Criminal Appeal No. 2567-2568 of 2025 vis-à-vis Respondent No. 1 to not pay the awarded amount. The Appellant has admitted that it has not received any notice from the police authorities attaching the awarded amount. We accordingly direct the Appellant to forthwith deposit the awarded amount along with up-to-date interest with the Executing Court within one (1) week. The amount payable to Respondent No. 2 shall be released by the Executing Court forthwith and the amount receivable by Respondent No. 1 shall be released only after Respondent No. 1 produces before the Executing Court the necessary permission from the Court concerned dealing with the proceedings pursuant to the order dated 13.05.2025 passed by the Supreme Court in Criminal Appeal Nos. 2567-2568 of 2025.

17. The reliance of the Appellant in **Bangalore Development Authority**

v. **Syndicate Bank** (supra) is clearly distinguishable on facts and in law. Firstly, it arose under the Consumer Protection Act, 1986 and concerned the nature of relief to be granted by a Consumer Forum in cases of delay in delivery of possession by a statutory development authority, whereas the present case concerns the limited scope of judicial interference with an Arbitral award under Section 37 of the Act of 1996. Secondly, in **Bangalore Development Authority** (supra), the allottee accepted possession during the pendency of the consumer proceedings and sought interest/compensation for delayed delivery. The Supreme Court therefore held that once possession at the agreed price had been accepted, the allottee would ordinarily not be entitled to interest on the sale consideration.

In the present case, however, the Respondents had terminated the Allotment Agreement much prior to the offer of possession and sought refund of the sale consideration; they never accepted the belated offer of possession. Accordingly, the said judgment has no application to the facts of the present case.

18. The reliance placed by the Appellant on **Ireo Grace Realtech Pvt. Ltd. v. Abhishek Khanna** (supra) is misplaced, as the said judgment was rendered in the context of consumer disputes under the Consumer Protection Act and RERA concerning delayed possession, interpretation of a specific apartment buyer's agreement, and the effect of mandatory statutory approvals such as Fire NOC under the Haryana Fire Safety Act. The Supreme Court's findings were based on the peculiar contractual terms and statutory framework applicable in that case, including the issue of one-sided contractual clauses and consumer remedies, none of which arise in the present arbitration proceedings.

Accordingly, the ratio of the said judgment has no application to the facts or issues involved in the present case.

19. The reliance placed by the Appellant on **Shanmughasundaram v. Diravia Nadar**[4] is misplaced. The Supreme Court in this judgment held that the Arbitral Award was unenforceable because the subject property was jointly owned by two brothers and three sisters, whereas only the brothers had entered into the arbitration agreement. Since the absent co-owners possessed independent proprietary rights in the very property forming the subject matter of arbitration, the award could not bind them and was therefore held to be invalid. The Court emphasized that an Arbitral Award cannot affect the rights of persons who are not parties to the arbitration agreement, particularly where they are indispensable co-owners of the disputed property.

The present case stands on an entirely different footing. Here, the dispute arises out of an Allotment Agreement dated 18.04.2013, to which both co-allottees were parties, and the arbitration was conducted between the contracting parties themselves. The Award neither determines nor prejudicially affects the rights of any independent third-party co-owner or non-signatory. The Appellant's contention that the Award would not 'completely discharge' its obligations under the Allotment Agreement does not render the Award invalid, as the Award only adjudicates the contractual rights and liabilities of the parties before the Tribunal. Unlike **Shanmughasundaram** (supra), there is no question of the Tribunal deciding rights of absent persons having an independent interest in the subject matter

[4] 2005(10) SCC 278

of arbitration.

20. Similarly, **Geo Miller & Co. Pvt. Ltd. v. Bihar Urban Infrastructure Development Corporation Ltd.,**[5] is also inapplicable. This case concerned the maintainability of arbitration proceedings at the instance of a party which was not itself a signatory to the arbitration agreement, namely Geo Miller, whereas the arbitration agreement existed between the Special Purpose Vehicle (SPV) and BUIDCO. The High Court considered whether a non-signatory could invoke the arbitration Clause despite not being a contracting party.

In the present case, there is no dispute regarding the identity of the parties to the arbitration agreement; both parties before the Arbitral Tribunal are signatories to the arbitration Clause, and the Award binds only those parties.

21. The appeal is however bereft of any merits and is hereby dismissed with costs of Rs. 2,00,000/- payable by the Appellant to the Respondents equally within two weeks. The proof of payment of cost shall be filed within two weeks.

22. Pending applications, if any, stands dismissed.

MANMEET PRITAM SINGH ARORA, J

V. KAMESWAR RAO, J

AUGUST 14, 2026/rhc/hp/AM/IB

[5] 2017:DHC:1019-DB