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

% Judgment reserved on: 23.09.2026
Judgment delivered on: 28.09.2026

\# **CNR No. DLHC010353552026**

\+ ARB. A. (COMM.) 55/2026, I.A. 20908/2026 & I.A. 23398/2026

WELLO RETAIL PVT LTD .....Appellant

versus

SANT PARMANAND BLIND RELIEF MISSION .....Respondent

<u>Advocates who appeared in this case:</u>

For the Petitioner : Dr. Amit George, Mr. Roshan S., Ms. Rupam Jha, Mr. Zubin M. John, Mr. Shivansh Sinha, Mr. Himanshu Pathak and Ms. Aadyaa Khanna, Advocates.

For the Respondent : Mr. Prashanto Chandra Sen, Senior Advocate with Mr. Madhup Singhal, and Ms. Abhipriya, Mr. Vanisha Mehta, Ms. Arjoo Rawat and Mr. Gurmeet Singh, Advocates.

CORAM:
HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

<u>J U D G E M E N T</u>

<u>TUSHAR RAO GEDELA, J.</u>

1. This is an appeal filed under Section 37(2)(b) of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as "*Act*") against the order dated 08.06.2026 passed by the learned Arbitrator dismissing the appellant's application under Section 17 of the Act.

2. Facts in brief are as under:

a. Appellant is a lessee of 605.76 sq. ft. space inside Sant

Parmanand Hospital Blind Relief Mission, Hospital, the respondent herein, under registered Lease Deed dated 20.04.2023 on a monthly rent of Rs.12 Lakhs. The terms of the agreement which regulate the receipt of pharmaceutical goods by respondent no.1 from the appellant, are Clauses 11 and 12. Clause 15 of the Lease agreement contains a 5 year lock-in period, subject to certain conditions and exceptions.

b. While the lease deed was subsisting, certain disputes arose in the context of what would be the charges that the appellant could levy for the in-patients of the Inpatient Department (hereinafter referred to as "*IPD*") of respondent/hospital. While the appellant alleges that the respondent has surreptitiously started procuring pharmaceutical products from a third party which is prohibited under the agreement, the respondent claims that the appellant has inflated the Maximum Retail Price (hereinafter referred to as "*MRP*") of the medicines and other pharmaceutical goods to be supplied to the respondent/hospital which has caused huge financial loss to it, and thereby constraining it to source the pharmaceutical goods from third-parties. The appellant claims that its revenue from IPD dropped steeply due to the parallel sourcing of medicines and allied products by respondent from third party sources, in breach of Clause 12 of the Lease Deed.

c. Appellant claims that it sent repeated communications dated 10.07.2025, 11.08.2025, 18.09.2025, 17.11.2025, 03.12.2025 demanding that the respondent stop the parallel procurement/billing, however, in vain.

d. The respondent, *vide* letter dated 11.12.2025, alleged breaches by the appellant, claiming "internal use" includes IPD pharma supplies which ought to be billed at cost price, not MRP, and threatened termination for non-payment of rent, despite signed reconciliations dated 05.09.2025, 08.12.2025, 12.01.2026 where rent was set off against trade receivables of appellant from insurance/panel bills.

e. Apprehending termination/revocation of the Lease Deed the appellant filed a petition under Section 9 of Act on 11.02.2026 seeking interim protection, and *vide* order dated 19.02.2026, this Court converted the petitioner under Section 9 of the Act into one under Section 17 of the Act and directed that the same be heard by learned Arbitrator.

f. *Vide* the impugned order dated 08.06.2026, the learned Arbitrator dismissed the application under Section 17 of the Act. Being aggrieved, appellant has preferred the present appeal under Section 37 of the Act.

3. Dr. Amit George, learned counsel for the appellant contended that in terms of the registered Lease Deed dated 20.04.2023 between the respondent/lessor and the appellant/lessee, particularly Clause 11 of the Lease Deed, the appellant was permitted to provide with two distinct and parallel commercial arrangements. One was in respect of supply of medicines and surgical consumables for the internal use of the hospital at a price determined by the respondent. According to him, this included selling to and billing the hospital for the same and only for the purposes of Operation Theater and Emergency Room and Casualty Department. This, according to him, was clearly encapsulated in Clause 11 of the Lease Deed. The second limb of sales, according to Dr. George, learned counsel, was supplying pharmaceutical and cosmetic items to the patients of the hospital both in IPD as well as in the Outpatient Department (hereinafter referred to as "*OPD*") by way of a Pharmacy setup within the premises of the hospital. This was governed by Clause 12 of the Lease Deed.

4. Learned counsel stated that the aforesaid arrangement continued for a period of almost 24-30 months, whereafter the appellant noted a steep decline in the revenue and profit from the IPD sales from March, 2025 onwards. Post assessment of the accounts, the appellant realized that such steep decline could only be the result of parallel billing on the part of the respondent.

5. Dr. George, learned counsel contended that on account of the threat of termination, the appellant filed a petition under Section 9 of the Act on 11.02.2026 seeking urgent interim protection from this Court. He would submit that *vide* the order dated 19.02.2026, this Court directed the petition under Section 9 of the Act to be treated as an application under Section 17 of the Act to be heard and disposed of by the learned Arbitrator. Dr. George, learned counsel, contended that the grievance of the appellant arises from the unilateral action of the respondent requiring the appellant to supply pharmaceutical goods on cost-to-cost price, fixed even for the IPD, contrary to the provisions of Clause 11 of the Lease Deed. He would contend that for almost 30 months after the execution of the Lease Deed, the appellant supplied pharmaceutical items on a cost-to-cost basis for the internal use of the hospital, however, also continue to provide Orthopaedics Implants, Cardiac Stents, lenes in Ophthalmology etc. at MRP, which was the condition specified in Clause 11 of the Lease Deed.

6. That apart, Dr. George, learned counsel would also contend that in terms of Clause 12 of the Lease Deed, the respondent was bound not to open any other outlet of the same nature of business or any other arrangement within the scope of work assigned to the appellant. According to him, the appellant was to be the sole supplier of pharmaceutical items, which would be required by the patients whether they fall under the IPD or OPD category. Thus, the action of the respondent is not only contrary to Clause 11 but also

violative of Clause 12 of the Lease Deed.

7. Learned counsel also invited attention to Clause 15 of the Lease Deed pertaining to the lock-in period of five years, which prohibited termination of the Lease Deed by either of the parties, subject to certain conditions and exceptions. According to him, no such condition had arisen on account of appellant in the present case.

8. He would draw the attention of this Court to the prayer clause in the application under Section 17 of the Act, to submit that the learned Arbitrator did not take note of various prayers, which were in the nature of an interim relief or protection. He would stoutly contend that the learned Arbitrator proceeded on an incorrect premise that the prayers sought in the application would amount to pre-judging the dispute on Clauses 11 and 12 of the Lease Deed, which, according to the learned Arbitrator, required detailed examination, evidence and looking into the conduct of the parties.

9. He would vehemently contend that the order of the learned Arbitrator is bereft of any reasoning as to on what grounds or what reasoning grant of interim prayers would be co-extensive with the final relief claimed in the Statement of Claim (hereinafter referred to as "*SoC*"), and thus, grant of such relief would render the arbitral proceedings only redundant.

10. Learned counsel also asserted that the balance of convenience is in favour of the appellant, who continues to pay lease rental of Rs. 12 Lakhs per month. If a third party is inducted during the pendency of the arbitration, the proceedings would be rendered infructuous and the appellant would suffer irreparable loss of revenue.

11. Dr. George, learned counsel, relied on the judgment of this Court in ***Conscient Infrastructure Pvt. Ltd. vs. Mahesh Kapoor and Another***, reported in ***2026 SCC OnLine Del 4436***.

12. *Per contra*, Mr. Prashanto Chandra Sen, learned senior counsel appeared on behalf of the respondent and stated that it is only upon the inquiry conducted by the hospital authorities that it was revealed that the appellant was highly inflating the MRP of pharmaceutical goods being supplied to the respondent in violation of Clause 11 of the Lease Deed.

13. He would contend that Clause 11 of the Lease Deed clearly did not contain any artificial distinction within the requirements for the IPD of the respondent hospital. He would contend that a bare reading of Clause 11 of the Lease Deed would bring to fore that the appellant was contractually obligated to provide pharmaceutical goods for the IPD on a cost-to-cost basis. Since the inquiry revealed that the appellant was involved in highly inflating the MRP of the pharmaceutical goods supplied to respondent in collusion with some of the employees of the respondent, the respondent was constrained to source pharmaceutical goods from third parties on a cost to cost basis. He emphasised that the respondent is a charitable hospital and thus runs on a no-profit-no loss basis and it is difficult for the respondent to absorb such high costs.

14. According to Mr. Sen, learned senior counsel, there is no merit in the contention of the appellant based on Clause 15 of the Lease Deed regarding the lock-in period. He would contend that Clause 15 of the Lease Deed itself specified terms, conditions and exceptions under which such lock-in period would not be applicable. In such cases, he would contend that the lock-in period by itself cannot be termed to be a mandatory clause which can be specifically enforced by any party.

15. Learned senior counsel also referred to certain paras of the application under Section 17 of the Act filed by the appellant to submit that contradiction between the contents of the application and the arguments addressed in the

present appeal in respect of an artificial bifurcation within the IPD, is evident. Learned senior counsel contended that Clause 11 of the Lease Deed nowhere draws any distinction between IPD, emergency theater, or wards and merely uses the expression "*internal use of the Hospital*". He would emphasise that the said expression can only mean the use of medicines, medical IV fluids, and surgical and allied products for the patients admitted to the Hospital irrespective of whether it is in emergency, operation theater or wards. In other words, according to him there is no sub-classification which can be discerned from Clause 11 of the Lease Deed.

16. He relied on the following judgments in support of his contentions:

16.1. ***Dyna Technologies Private Limited vs. Crompton Greaves Limited***, reported in ***2019 SCC OnLine SC 1656***.

16.2. ***Rakesh Kumar and Company vs. Union of India through the Dy. Chief Engineer***, reported in ***2015 SCC OnLine Del 8677***.

17. This Court has heard Dr George, learned counsel for the appellant and Mr. Prashanto Sen, learned senior counsel for the respondent at length and examined the record.

18. At the outset, it is deemed appropriate to not travel into the interpretation of various Clauses of the Lease Deed, particularly, Clauses 11, 12, 13 and 15 of the Lease Deed, lest it may prejudice the case of any of the parties to the appeal before the learned Arbitrator.

19. Having said that, it is noted that the appellant had approached the learned Arbitrator with an application under Section 17 of the Act seeking certain reliefs as interim measures of protection. The learned Arbitrator was of the opinion that a decision on such reliefs may entail passing of an order which may tantamount to final relief and, thus, was disinclined to pass any interim orders. In order to ascertain the above, it may be relevant to first

examine and appreciate the prayer clauses in the said application. The same are as under:

> *"a. Restrain the Respondent from terminating the lease deed dated 20.04.2023, during the pendency of the adjudication of the Statement of Claim,*
> *b. Restrain the Respondent from opening itself, or through any third party, any new pharmacy or supply source, inside the Sant Parmanand Hospital premises at Civil Lines for supply of IPD or OPD requirements during the pendency of the adjudication of the Statement of Claim,*
> *c. Restrain the respondent from entering into any other arrangement for parallel procurement of pharmaceutical supplies for the consumption of OPD and IPD of the Hospital during the pendency of the adjudication of the Statement of Claim,*
> *d. Restrain the Respondent from parallelly billing IPD patients for pharmaceutical supplies, at Sant Parmanand Hospital, Civil Lines in the name of any third-party suppliers, i.e., anyone apart from the Claimant during the pendency of the adjudication of the Statement of Claim,*
> *e. Pass any other order or further order(s) as this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case which appear to be just and convenient"*

20. Since the learned Arbitrator was of the opinion that any relief out of the above interim measures sought, would tantamount to pre judging Clauses 11 and 12 of the Lease Deed and which may require evidence to be led; and the grant of any such relief would render the arbitral proceedings redundant, it may be apposite to examine the prayers in the SoC. The same read thus:

> *"i. Award an amount of Rs. 4,06,29,294/- (Rupees Four Crores, Six Lakhs, Twenty Nine Thousand, Two Hundred and Ninety Four) to the Claimant, for the loss of anticipated profits suffered due to the wanton breach of Clause 12 of the Lease Deed;*
> *ii. Award Pendente lite and Future Interest to the Claimant, on the Sum of Rs. 4,06,29,294/- at a Rate of 12 percent per annum from the Date of Filing of the Statement of Claim, till the date of payment;*
> *iii. Award an amount of Rs. 1,32,86,248/- (Rupees One Crore, Thirty Two Lakhs, Eighty Six Thousand, Two Hundred and Forty Eight) to the Claimant for the unpaid trade receivables payable by the Respondent for the pharmaceutical supplies provided on credit;*
> *iv. Award Pendente lite and Future Interest to the Claimant, on the Sum of Rs. 1,32,86,248/- (payable as on 31st March 2026) at a Rate of 12 percent per annum from the Date of Filing of the Statement of Claim, till the date of the payment;*

v. Grant specific performance of the Lease Deed dated 20.04.2023, from the date of the decree till the expiry of the lock in period, i.e. 30.06.2028, as per Clauses 15 and 16 of the lease deed;
vi. Grant a mandatory injunction restraining the Respondent from breaching the covenant present in Clause 12 of the Lease Deed dated 20.04.2023, from the date of the decree till the expiry of the lock in period, i.e. 30.06.2028, as per Clauses 15 and 16 of the lease deed;
vii. Award under Section 31A, for all costs incurred by the Claimant on account of this arbitration and all ancillary proceedings;
viii. Pass any other order as the Claimant may pray for during the course of proceedings and as the Tribunal may see fit."

21. Apart from seeking specific performance of the agreement in question and grant of mandatory injunction till the lock in period, the other prayers are purely monetary in nature. If the prayers in the application under Section 17 of the Act are closely examined and juxtaposed with the main prayers in the SoC, some of the prayers in the application may still be open to the appellant to seek. Whether it is able to propel the learned Arbitrator to grant or refuse all or any of those reliefs is altogether a different issue. The prayers in the application are in the nature of interim protection/directions of measures which may be co-extensive with the prayers in the SoC, but that by itself would not, *ipso facto*, mean that the prayer would tantamount to final determination. At times, and having due regard to myriad situations arising in cases, certain interim orders may need to be passed so as to maintain equality and balance the contrasting rights between the parties. That grant by itself, would not, in the opinion of this Court, tantamount to or be an expression on merits of the SoC. Looked at from a different perspective, if that proposition is acceded to, then in no case can an order granting temporary injunction or any other interim relief, be granted. That is not, and cannot be the law.

22. That said, it may now be apposite to scrutinise the reasoning rendered by the learned Arbitrator. The para 7 of the impugned order contains the

justification of the learned Arbitrator and is extracted hereunder:

> *"7. That detailed arguments on behalf of both the parties, were heard by the undersigned. Written submissions for the said application, were submitted by both the parties herein. After going through all the pleadings, and submissions, of both the parties herein, the undersigned is of the opinion, that the reliefs sought for by the Claimant, in the said application, if granted, would amount to granting of the final relief in the current Arbitration Proceedings. That I am of the opinion, that granting such prayers, at this stage, would amount to pre-judging the dispute on Clauses 11 & 12, which according to me require detailed examination, evidence, and looking into the conduct of the parties herein. I am of the opinion, that in the present proceedings, the relief sought for by the Claimant at this interim stage, is in substance and effect, co-extensive with the final relief claimed for in the Statement of Claim. Granting such relief, at this stage, would render the Arbitral Proceedings on merits wholly redundant, and would deprive the parties herein, to lead evidence and contest their respective claims in full. The undersigned, has relied upon the following judgments:*
> ***Dulpat Kumar Vs. Prahlad Singh, (1992) 1 SCC 719***
> *The courts have consistently held that interim injunctions at the interlocutory stage should not amount to disposal of the main case.*
> *I am of the opinion that, granting such prayers at this stage would amount to pre-judging the dispute on Clauses 11 & 12, which requires detailed examination of extrinsic evidence, trade usage, and the conduct of parties.*
> *Further, the Hon'ble Supreme Court in **Assistant Collector of Central Excise v. Dunlop India Ltd., (1985)1 SCC 260**, expressly cautioned that interim orders must not result in conferring upon a party the very relief that can only legitimately follow after a full trial."*

23. After having considered the submissions of the parties, the learned Arbitrator has formed an opinion which is recorded in the said para. However, with due respect, this Court is not able to discern any reasoning or justification that may have propelled the learned Arbitrator to conclude or *prima facie*, find that the grant of all or any of the prayers sought in the application would tantamount to pre-judging the dispute or that the relief sought is fully co-extensive and that grant of such interim relief would determine the SoC, finally. It is trite that reasons are the bedrock of any order, be it judicial or quasi judicial. No doubt that under the arbitration regime, the orders are not expected to be at the same threshold as of a judicial

determination in a Court of law, nevertheless, some reason or justification to have arrived at or formation of an opinion, ought to be at least, discernible.

24. Learned counsel for the parties had relied on the judgment of the Supreme Court in ***Dyna*** (*supra*) in support of their contentions. Mr Sen, learned senior counsel for the respondent relied on para 35 to submit that courts are required to be careful while distinguishing between inadequacy of reasons in an award and unintelligible awards. In other words, he contended that this Court may not interfere on account of there being an inadequacy of reasons in the impugned award as, according to him, para 7 of the impugned order contained not only reasons but the formation of an opinion based on the arguments of the parties.

25. On the other hand, Dr George, learned counsel, relied on para 40 of ***Dyna*** (*supra*) to contend that penultimately, the Supreme Court had reiterated the principle that legal reasoning is a requirement to arrive at a conclusion. According to him, there are no reasons provided in para 7 of the impugned order to justify the formation of the opinion recorded therein.

26. This Court finds that both paras relied upon by the respective counsel are harmonised and well entrenched. Undoubtedly, inadequacy of reason may not justify an interference in an arbitral award, whether final or otherwise, however, reasons nevertheless have to be provided for the formation of an opinion.

27. In the present case, as observed above, the reasons, as to how all or any of the reliefs sought in the application under Section 17 of the Act, would tantamount to pre-judging Clauses 11 and 12 of the Lease Deed or how the grant of any such relief would, *ipso facto*, "render the arbitral proceedings on merits wholly redundant", to use the same expression as contained in para 7 of the impugned order, have not been provided. This is not to say that the

learned Arbitrator has to provide a determinative or conclusive reason or opinion, yet, some reason for such opinion ought to be provided.

28. *Ab supra*, the appeal is allowed. As a *sequitor*, the application under Section 17 of the Act, may be heard afresh and disposed of expeditiously.

29. Needless to observe that this order is not an expression on the merits of the SoC or the application under Section 17 of the Act and the learned Arbitrator shall decide the said application, uninfluenced.

30. The appeal is disposed of alongwith pending applications, if any.

TUSHAR RAO GEDELA
(JUDGE)

SEPTEMBER 28, 2026
rl/sumit