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

+ **ARB. A. (COMM.) 54/2025, I.A. 8952/2025, I.A. 8954/2025 and I.A. 10724/2025**

Date of Decision: **08.10.2025**

IN THE MATTER OF:

MUNCIPAL CORPORATION OF DELHI

THROUGH:- PROJECT MANAGER (CIVIL),
CIVIC CENTRE, 22ND FLOOR, DR. SPM CIVIC CENTRE,
NORTH DELHI MUNICIPAL CORPORATION, MINTO ROAD,
NEW DELHI - 110002

..... PETITIONER

Through: Ms.Arundhati Katju, Sr. Advocate
with Mr.Sanjay, Ms.Ritika and
Mr.Siddhartha, Advocates along with
Mr.Sanjeet, ASO, MCD.

Versus

HIMALYAN FLORA AND AROMAS PVT LTD.

THROUGH: - MR GUARAV VIJH,
DIRECTOR,
RIO D-253, ANAND VIHAR, NEW
DELHI

..... RESPONDENT

Through: Mr.Rajshekhar Rao, Sr. Advocate
with Mr.Anand Mishra, Ms.Vandita,
Ms.Ayushi, Mr.Ajay and
Mr.Devansh, Advocates.
Mr.Avadh Bihari Kaushik, Ms.Saloni
Mahajan and Mr.Rishabh Kumar,
Advocate for applicant in I.A.
10724/2025.



2025:DHC:8977



HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

JUDGEMENT

PURUSHAINDRA KUMAR KAURAV, J. (ORAL)

The instant appeal under Section 37 of the Arbitration & Conciliation Act, 1996 (*hereinafter referred to as A&C Act*) seeks to assail the impugned award dated 11.12.2024 passed by the Emergency Arbitrator in exercise of his power vested under Delhi International Arbitration Centre (Arbitration Proceedings) Rules, 2023 (*hereinafter referred to as the Rules of 2023*).

2. Ms. Arundhati Katju, learned senior counsel for the appellant, *in limine*, submits that the Emergency Arbitrator has erred in extending the operation of the impugned order beyond a period of 90 days. According to her, Rule 14.13 of the Rules of 2023 empowers only the Arbitral Tribunal, and not the Emergency Arbitrator, to extend the operation of the award in the emergency arbitration proceeding beyond the period of 90 days. She has taken this Court through paragraph no.17 of the impugned award to justify her submission.

3. The aforesaid submission is vehemently opposed by Mr. Rajshekhar Rao, learned senior counsel for the respondent. He contends that such a narrow reading of the Rule is impermissible, in as much as the Emergency Arbitrator is fully empowered to modify and even extend the period of operation of his award, beyond 90 days. He submits that the provision under Rule 14.13 nowhere suggests that the interim order cannot remain in operation beyond the period of 90 days.



4. Mr. Rajshekhar Rao has drawn the attention of this Court to the order dated 11.09.2025 passed in Arb. P. 714/2025 between the same parties for constitution of Arbitral Tribunal, and he contends that the appellant herein had raised similar objections in the said proceedings, which were ultimately rejected by the Court in terms of paragraph no.12 thereof. He further submits that under the facts of the present case, '*prima facie case*', '*balance of convenience*' and '*irreparable injury*' i.e., all the ingredients for granting interim relief tilt in his favour, and therefore, the Court may consider to affirm the order passed by the Emergency Arbitrator. According to him, there is no illegality or perversity in the impugned order. He further points out that under Rule 2(c) of the Rules of 2023, the term 'Arbitral Tribunal' is defined to include within its ambit, 'Emergency Arbitrator' and contends that since the Arbitral Tribunal is empowered to extend the operation of the emergency award, the Emergency Arbitrator is also vested with the same power.

5. Learned counsel for both the parties have made various other assertions against each other. However, for the point which is required to be adjudicated by the Court herein, all the said assertions may not have any relevance.

6. I have heard learned counsel for the parties and have perused the record.

7. Coming straight to the relevant rule, i.e., Rule 14.13 of the Rules of 2023, it would appear that the order passed by the Emergency Arbitrator shall remain operative for a period of 90 days from the date of passing of



order, unless modified/ substituted, vacated, or extended by the Arbitral Tribunal. The aforesaid rule is extracted below, for reference:

“14. Emergency Arbitration

14.1 If a party requires urgent, interim or conservatory measures that cannot await the formation of the Arbitral Tribunal under the rules, it may make an application to DIAC, with a simultaneous copy thereof to the other party to the arbitration agreement, for such measures.

14.2 The party making such an application shall-

(a) include a statement briefly describing the nature and circumstances of the relief sought and specific reasons why such relief is required on an emergency basis and the reasons why the party is entitled to such relief;

(b) pay the application fee prescribed for the appointment of the Emergency Arbitrator; and file proof of service of such application upon the opposite party.

14.3 The fee of the Emergency Arbitrator shall be as prescribed in the Delhi International Arbitration Centre (Administrative Costs and Arbitrators' Fees) Rules, 2018 and the party invoking the provision of Emergency Arbitration shall deposit such fees along with the application.

14.4 The Chairperson/Sub-Committee shall appoint the Emergency Arbitrator within two days of making of such request (excluding non-business days).

14.5 Prior to accepting his appointment, a prospective Emergency Arbitrator shall file disclosure in writing in terms of Section 12 of the Act. Any challenge to the appointment of the Emergency Arbitrator must be made within one business day of the communication by DIAC to the parties of the appointment of the Emergency Arbitrator and the circumstances disclosed.

14.6 An Emergency Arbitrator may not act as an Arbitrator in any future arbitration relating to the dispute unless agreed by all the parties.

14.7 The Emergency Arbitrator so appointed shall schedule a hearing including the filing of pleadings and documents by the parties within two business days of his appointment. The parties shall abide by the



schedule, failing which the Emergency Arbitrator may proceed with the arbitration without giving further time to such party.

14.8 The Emergency Arbitrator shall provide a reasonable opportunity of being heard to all the parties before granting any urgent, interim or conservatory measures and proceed to make an order by giving reasons.

14.9 The Emergency Arbitrator shall have the power to order any interim relief that he deems necessary. An order of the Emergency Arbitrator shall be made in writing, with a brief statement of reasons. An order of an Emergency Arbitrator shall be enforceable in the manner as provided in the Act.

14.10 The Emergency Arbitrator shall ensure that the entire process from the date of his appointment to the making of the order shall be completed within fourteen (14) days, failing which the Emergency Arbitrator will not be entitled to any fee.

14.11 The Emergency Arbitrator shall become functus officio after 14 days or after the order is made, whichever is earlier, and shall not be a part of the Arbitral Tribunal which may be formed subsequently unless otherwise agreed to by all the parties.

14.12 The order for urgent, interim or conservatory measures passed by the Emergency Arbitrator shall not bind the Arbitral Tribunal on the merits of any issue or dispute that the said Tribunal may be required to determine.

14.13 The order passed by the Emergency Arbitrator shall remain operative for a period of 90 (ninety) days from the date of passing of the order unless modified, substituted or vacated by the Arbitral Tribunal. The Arbitral Tribunal shall also have the power to extend the operation of the order beyond the period of 90 (ninety) days.

14.14 Any order of the Emergency Arbitrator may be confirmed, varied, discharged or revoked, in whole or in part, by order or award made by the Arbitral Tribunal upon application by any party or upon its own initiative.”

8. In view of the aforesaid Rule, it is clear that the term ‘emergency’ in ‘Emergency Arbitrator’ has some significance. The powers of the Emergency Arbitrator are conferred on him only to deal with emergent



situations and to pass appropriate orders, which shall remain operative only for the period of 90 days from the date of its passing. What is provided thereafter, is the power conferred to the Arbitral Tribunal to vary, modify, or extend the operation of an order which is passed by the Emergency Arbitrator.

9. Furthermore, an examination of Rule 14 of the Rules of 2023 additionally supports the view that, for the purposes of Rule 14, the terms ‘Emergency Arbitrator’ and ‘Arbitral Tribunal’ cannot be used interchangeably. Rule 14.11 of the Rules of 2023 clearly bars the Emergency Arbitrator from being a part of the Arbitral Tribunal unless otherwise agreed by the parties. No such agreement has been reached between the parties in the aforesaid regard. Therefore, clearly, for the purposes of the present dispute, the Emergency Arbitrator cannot be deemed to be ‘Arbitral Tribunal’ so as to exercise the power vested in the latter under Rule 14.13 of the Rules of 2023.

10. Merely because power is conferred to the Arbitral Tribunal for modification, substitution, vacation, or extension of the order of the Emergency Arbitrator, the same cannot be extended to the latter. If the powers which are essentially conferred to the Arbitral Tribunal are allowed to be read into the powers of the Emergency Arbitrator, the entire scheme and object of emergency arbitration under the A&C Act will be defeated. Therefore, the terms ‘Emergency Arbitrator’ and ‘Arbitral Tribunal’ cannot be used interchangeably, for the purposes of Rule 14 of the Rules of 2023. The aforesaid conclusion is the only possible view that can be taken by the



Court without defeating the scheme of the A&C Act. Under these circumstances, the Court is of the considered opinion that the Emergency Arbitrator is only empowered to pass an order which shall remain in operation for a period of 90 days from the date of passing the same.

11. It is pointed out by the learned counsel for the parties that although the aforesaid petition for appointment of the Arbitral Tribunal has been allowed, the arbitration proceedings are yet to commence. Therefore, it is clear that the order passed by the Emergency Arbitrator has not been modified/substituted or vacated by the Arbitral Tribunal.

12. Considering the facts, it is seen that the respondent is entitled to move an application under Section 9 or 17 of the A&C Act before the Arbitral Tribunal. If such an application is filed, the same shall be considered in accordance with law.

13. Since the order passed by the Emergency Arbitrator has already lived its life and has ceded to remain in operation beyond a period of 90 days, the same has to be set aside.

14. Accordingly, the order dated 11.12.2024 stands set aside, as by operation of the scheme of the extant rules, the same became inoperative after 90 days from the date of its passing.

15. At this stage, Mr. Rajshekhar Rao prays that the respondent be protected for a period of seven (7) days to enable the respondent to file an appropriate application and to take redressal under Section 9 or 17 of the A&C Act.



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16. Since the order dated 11.12.2024 remained in operation for 11 months till its setting aside now, and under the peculiar facts and circumstances of the instant case, the Court deems it appropriate to direct for maintenance of *status quo* as existing today for a period of seven (7) days.

17. With the aforesaid observations, the appeal stands allowed and is disposed of accordingly. All pending applications also stand disposed of.

18. It is made clear that the observations made hereinabove is under the peculiar facts and circumstances of the instant case and the Arbitral Tribunal shall deal with the matter strictly on the basis of the record and without being influenced by the observations made hereinabove, including the order of *status quo* being made operational for a limited period.

PURUSHAINDRA KUMAR KAURAV, J

OCTOBER 8, 2025

Nc/amg