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

Date of decision: 18th AUGUST, 2026

IN THE MATTER OF:

\# ***CNR No. DLHC010108392020***

\+ **O.M.P. (COMM) 199/2020 & I.A. 2641/2014**

JANSATTA SEHKRI AWAS SAMITI LTD .....Petitioner

Through:

versus

M/S GOBIND RAM CHAPRANA & SONS .....Respondent

Through: Mr. Sameer Nandwani and Mr. Aashirwad, Advs.

CORAM:
HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

JUDGMENT

1. The challenge in the present Petition being O.M.P. (COMM) 199/2020 is to the Award dated 06.07.2013 passed by the Ld. Sole Arbitrator (*hereinafter referred to as the* "**Impugned Award**").

2. The facts, in brief, as borne out from the material on record, are stated as under:

i. The Petitioner, Jansatta Sehkari Awas Samiti Ltd., is a cooperative group housing society registered under the U.P. Group Housing Cooperative Societies Act having its camp office at 9-10 Express Building, Bahadur Shah Jafar Marg, New Delhi – 110002.

ii. The Respondent, M/s Gobind Ram Chaprana & Sons is a partnership concern engaged in the business of civil construction.

iii. It is stated that on 30.03.1998, the Petitioner appointed M/s Organic India as the architect for the proposed housing project and entered into an Agreement with it for rendering architectural and supervisory services.

iv. It is stated that the Petitioner thereafter invited tenders through an advertisement calling upon civil contractors for construction of 110 flats at Plot No.1, Sector – 9, Vasundhara, Ghaziabad.

v. It is stated that on 23.07.1998, the Petitioner entered into an Agreement with the Respondent for construction of 110 flats, having a total built-up area of approximately 1,33,000 sq. ft., for a total contract value of Rs.7,53,44,346/- (*hereinafter referred to as the* "**Contract**"). It is further stated that the construction was to be completed within a period of 2 (two) years from the commencement of the work.

vi. It is stated that the Respondent deposited an amount of Rs.1,50,000/- as earnest money, which was to be adjusted towards the security deposit, and was also paid an advance of Rs.1,25,000/- by the Petitioner. It is further stated that the internal electrical works were also entrusted to the Respondent under a separate Agreement executed on 23.07.1998.

vii. It is stated that during the period 1998-1999, several meetings were held between the Respondent and the architect for discussions concerning the architectural plans, structural drawings and other construction related issues.

viii. It is stated that *vide* letter dated 20.01.1999, the Petitioner directed the Respondent to commence the construction work from 22.01.1999 after collecting the requisite drawings from the architect.

ix. It is stated that in its meeting held on 05.03.1999, the Managing Committee accorded post-facto approval to a bill submitted by the Respondent. Thereafter, on 10.04.1999, part payments were released by the Petitioner to both the architect and the Respondent.

x. It is stated that discrepancies were subsequently noticed in the structural drawings. Accordingly, the Secretary of the Petitioner, addressed a letter dated 08.07.1999 to the architect highlighting such discrepancies. Thereafter, the Engineers also addressed a communication dated 19.09.1999 to the architect regarding the issues in the drawings.

xi. It is stated that as no corrective action was taken by the architect, the Secretary of the Petitioner once again addressed a letter dated 15.10.1999 pointing out the architect's failure to rectify the discrepancies and alleging negligence in verifying the Measurement Book records and the running bills.

xii. It is stated that the Managing Committee of the Petitioner, in its meeting held on 26.12.1999, accorded post-facto approval to another bill raised by the Respondent.

xiii. It is stated that owing to the continued delay in the execution of the project despite substantial expenditure, the Petitioner constituted an Enquiry Committee to examine the reasons for the delay. The Enquiry Committee addressed letters dated 14.06.2000 and 30.06.2000 to the architect seeking an explanation as to whether the expenditure of approximately Rs.8,00,00,000/- was commensurate with the stage of construction and calling upon the architect to furnish the relevant details.

xiv. It is stated that the Respondent continued to carry out the construction work till 31.07.2000, although the progress of the work remained slow.

xv. It is stated that being dissatisfied with the conduct of the architect, particularly his failure to provide drawings and necessary documents, the Petitioner appointed M/s Anil Ashok & Associates, Chartered Accountants, vide letter dated 27.03.2001, to conduct an internal audit of the entire construction project. It is stated that the first part of the audit report was submitted on 15.06.2001, the second part on 25.06.2001, and the final audit report on 25.04.2002.

xvi. It is stated that a Memorandum of Compromise/Supplementary Agreement dated 25.03.2002 was executed between the Petitioner and Respondent for competition of the balance work (*hereinafter referred to as the* "**Supplementary Agreement**"). Under the said supplementary agreement, the measurement work was agreed to be completed by the Respondent.

xvii. It is stated that upon consideration of the audit findings, the General Body Meeting of the Petitioner held on 28.04.2002 resolved to undertake re-measurement of the civil works executed by the Respondent along with verification of the quantities. Pursuant thereto, a Re-measurement Committee conducted the exercise and submitted its report containing the actual measurements and quality assessment of the civil works.

xviii. It is stated that thereafter, *vide* letter dated 15.07.2002, the Petitioner addressed the architect highlighting his alleged callous, negligent and irresponsible conduct. The architect is stated to have replied to the said communication denying the allegations levelled against him.

xix. It is stated that the Petitioner thereafter issued a letter dated 17.01.2003 calling upon the Respondent to complete the balance work and to reconcile the accounts between the parties.

xx. It is further stated that *vide* communication dated 14.02.2003, the Petitioner once again reminded the architect of his contractual obligations and alleged that a loss of approximately Rs.1,70,00,000/- had been suffered on account of his negligence.

xxi. It is stated that disputes arose between the parties in consequence thereof, and the matter was referred to arbitration, wherein Hon'ble Justice Mr. V.S. Aggarwal, Former Judge of this Court was appointed as the sole arbitrator to adjudicate the disputes.

xxii. The claims made by the Respondent before the learned Sole Arbitrator reads as under:

a) An amount of Rs.97,38,202/- payable towards the bills raised;

b) An amount of Rs.71,45,955/- payable towards the escalation charges; and

c) An amount of Rs.42,54,869/- payable towards interest @18% p.a. from 21.11.2005 till the petition was filed

xxiii. The Petitioner raised counter-claims. The said counter-claims are extracted below for reference and the same reads as under:

a) over payment to the contractor Rs. 96,56,745/-;

b) highly inflated rates quoted by the claimant Rs. 2,05,76,825/-;

c) loss caused by the claimant and harassment Rs. 60,00,000/-;

d) interest at 18% per annum

In all the respondent besides costs of arbitration claims Rs. 3,52,33,570/-."

xxiv. The following issues were framed by the Arbitral Tribunal on 05.12.2006:

"23. *From these pleadings of the parties, this tribunal framed the following questions in controversy on 05.12.2006:-*

QUESTIONS

1. Whether Rs. 97,38,202/- is due to the claimant for the professional work?

2. Whether the claimant is entitled to the escalation amount of Rs. 71,45,955/-?

3. Whether the claimant is entitled to interest @ 18% per annum on the sum claimed?

4. Whether the respondent is entitled to Rs. 96,56,745/- for the alleged over-payment to the contractor?

5. Whether the respondent is entitled to Rs. 2,05,76,825/- for the alleged inflated rates charged by the claimant?

> *6. Whether the respondent is entitled to Rs. 50 lakhs for the alleged delay in execution of the work?*
>
> *7. Whether the respondent is entitled to interest? If so, at what rate?*
>
> *8. Relief.*"

xxv. Thereafter, *vide* Order dated 16.01.2007 of the Arbitral Tribunal, the learned Sole Arbitrator, at the request of the parties, framed an additional issue, being Issue No.7A, in the following terms:

"*7A Whether respondent can claim the amount, if any, from the claimant despite having filed the claim against the architecture?*"

xxvi. It is stated that the Arbitral Tribunal rendered its Award dated 06.07.2013.

xxvii. The learned Sole Arbitrator recorded that there was no dispute between the Petitioner and the Respondent regarding the allotment of the plot to the Petitioner for the construction of residential flats. It was noted that, pursuant to the advertisement issued by the Petitioner inviting tenders, a Technical Committee was constituted which selected the Respondent as the contractor for execution of the works under the Contract. The learned Sole Arbitrator further observed that the Technical Committee had also recommended the engagement of an architect and, accordingly, the construction was required to be executed strictly in accordance with the drawings and specifications prepared by M/s Organic India, the appointed architect.

xxviii. The learned Sole Arbitrator further noted that both parties had adduced oral and documentary evidence in support of their respective cases. On behalf of the Respondent, the affidavit of Shri Raj Pal Singh Kalyan, one of its partners, was tendered in evidence. On behalf of the Petitioner, affidavits were filed by (i) Shri Ram Bahadur Rai (RW-1), the President of the Petitioner Society from 1993 to 2003; (ii) Shri Manoj Kumar Misra (RW-2), an allottee of a flat since July 2000; (iii) Shri Arihan Jain (RW-3), who headed the three-member Committee constituted to measure the civil works executed at the site; and (iv) Shri Ashok Kumar Walia (RW-4), who had prepared and submitted the Audit Report.

xxix. The learned Sole Arbitrator thereafter referred to and relied upon certain material terms and conditions of the Contract, which have been extracted hereinbelow:

> "31. *Before proceeding to consider the questions in controversy, it must be mentioned that the agreement between the parties dated 23.07.1998 is not in dispute. The relevant extract of the same clearly indicates certain salient features of the agreement. The respondent through its architect had the right to alter the drawing and the nature of the work to be carried on by the claimant. The work had to be carried out by the claimant. The work had to be carried out as per the drawings and specifications prepared by M/s. Organic India (the Architect). Paragraph No. 2.5 states that the order to be done from time to time by the Society has to be carried and may not be shown on the drawings. Paragraph 2.7 permits rebate of 3% on the gross amount of the bill excluding the cost of materials supplied by the society. Paragraph 2.8 states that the contractor will not claim any escalation towards labour and material for the first thirteen months but subsequently it could be worked out as per clause 34 of the tender. In para 2.9 it is mentioned that in the final*

payment bill the total gross quantity of the materials supplied to the contractor shall be mentioned upto the completion of the work. The said paragraphs read as under:-

"2.5. Ordered to be done from time to time by the Society even though such works may not be shown on the drawings or described in the said specifications or the said schedule of quantities.

2.6. The said conditions, specifications and appendix as given in tender thereto shall be read and considered as forming part of this agreement, and the parties hereto shall abide by, submit themselves to the conditions and perform the Agreement on their part respectively in such conditions as contained.

2.7. A rebate of 3% on the gross amount of the bill excluding the cost of materials supplied by the society will be given by the contractor.

2.8. The contractor will not claim any escalation towards labour and material for the first thirteen months from the date of award of work. Subsequently escalation will be worked out as per clause 34 of the tender and these again will be negotiated to the mutual satisfaction of both the parties.

2.9. The following materials will be supplied by the society at sites, rates given against each item.

i) Cement in bags @ Rs. 125/- per bag weighing 50 kg.
ii) For Steel @ Rs.1,500 per quintal.
iii) Bricks @ Rs. 1,310/- per thousand.

The cost of above materials shall be deducted from the running account bills of the contractor in the following manner:-

> *a) From running account interim bills actual quantity consumed and charged for in each respective bill.*
>
> *b) In the final payment bill account, the total gross quantities of materials supplied to the contractor upto the completion of the work. The wastage etc shall be borne by the contractors and any residue of the materials shall be the property of the contractors.*"

xxx. The learned Sole Arbitrator observed that the 18th Running Bill had never been submitted to the Petitioner during the subsistence of the Contract and was produced for the first time only along with the Statement of Claim before the Arbitral Tribunal. The learned Sole Arbitrator found that there was no material to establish that the said Bill had ever been forwarded to the Petitioner. It was further noticed that, after the Petitioner pointed out discrepancies in the said Bill, the Respondent itself filed a revised 18th Running Bill along with its Rejoinder before the Arbitral Tribunal. The learned Sole Arbitrator also took note of the fact that several Committees had been constituted by the Petitioner and multiple reports had been prepared in relation to the execution and measurement of the works. In these circumstances, the learned Sole Arbitrator found it difficult to accept the Respondent's contention that the 18th Running Bill had been consistently raised while such disputes, inspections and measurement exercises were simultaneously underway.

xxxi. The learned Sole Arbitrator further placed considerable reliance upon the Supplementary Agreement executed between the parties. It was observed that under the said Agreement, the parties had jointly measured the unfinished work, assessed the value of the balance work at approximately Rs.54,00,000/-, agreed that the Respondent would complete the remaining works under a revised payment schedule, and further agreed that an additional sum of Rs.6,50,000/- would be payable towards the Respondent's earlier claim, subject to verification upon completion of the measurements.

xxxii. The learned Sole Arbitrator further recorded that the Respondent had never challenged either the execution or the validity of the Supplementary Agreement. It was held that the said Agreement constituted a fresh and binding contract governing the completion of the balance works and superseded the earlier disputes relating to the unfinished work. The learned Sole Arbitrator further held that the Supplementary Agreement prescribed a fresh payment mechanism regulating the subsequent rights and obligations of the parties. Consequently, it was observed that the Respondent could not disregard the terms of the Supplementary Agreement and seek recovery solely on the basis of the disputed 18th Running Bill.

xxxiii. Upon evaluating the work proved to have been executed and the amounts found payable under the Supplementary Agreement, the learned Sole Arbitrator concluded that the Respondent had failed to substantiate its claim for Rs.97,38,202/- founded upon the disputed 18th Running Bill. Accordingly, instead of allowing the claim in terms of the entire Running Bill, the learned Sole Arbitrator restricted the Respondent's entitlement to a sum of Rs.14,25,000/-.

xxxiv. The learned Sole Arbitrator noted that once the parties had entered into the Supplementary Agreement, the Respondent could not seek payment beyond what had been agreed therein. He further noted that Supplementary Agreement did not contain any provision for payment of escalation charges and instead, it fixed the consideration payable for completion of the remaining work.

xxxv. The learned Sole Arbitrator further noted that the Supplementary Agreement superseded the Respondent's earlier monetary claims and barred any claim exceeding the amounts agreed therein, except the reserved sum of Rs.6,50,000/-, which was separately allowed because the Petitioner failed to prove overpayment.

xxxvi. The learned Sole Arbitrator thereafter proceeded to adjudicate the disputes between the parties, including the claims preferred by the Respondent and the counter-claims raised by the Petitioner. As a natural corollary, the learned Sole Arbitrator rejected the counter-claims of the Petitioner.

xxxvii. Upon such adjudication, the learned Sole Arbitrator awarded a sum of Rs.14,25,000/- in favour of the Respondent along with interest at the rate of 18% per annum from 25.08.2005 till 30.06.2013 i.e. Rs.20,13,525/-.

3. Now, by way of the instant Petition, the Petitioner challenges the findings of the learned Sole Arbitrator, on the ground that the Impugned Award is in violation of the public policy of India. The following arguments have been raised, praying for the setting aside of the Impugned Award:

a) It is contended that the learned Sole Arbitrator failed to determine whether the arbitral proceedings were required to be conducted *ex aequo et bono* or in the capacity of an *amiable compositeur*, in terms of Section 19 of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as the "**Act**"). It is further contended that the procedure adopted by the learned Sole Arbitrator at the inception of the proceedings vitiated the entire arbitral proceedings.

b) It is further contended that the learned Sole Arbitrator failed to consider Issue No.7A - whether the Petitioner herein can claim any amount, if any, from the Respondent despite having already raised a claim against the architect, which claim remained pending and undecided. It is submitted that the failure to adjudicate upon the said issue rendered the entire arbitral proceedings and the Impugned Award perverse and unsustainable in law. He further stated that the Sole Arbitrator neglected to proceed with the arbitration proceedings as per the provisions of Section 24 of the Act.

c) It is contended that the Impugned Award is legally untenable as the learned Sole Arbitrator failed to consider the relevant facts and applicable contractual provisions, particularly those relating to the issuance of the certificate of virtual completion, jointly and/or severally by the Respondent and the Architect. It is further contended that the learned Sole Arbitrator arrived at findings which were inconsistent even with his own conclusions and disregarded material documents, including the document evidencing payment of Rs.15,62,052/- to another contractor, namely Mr. Rehmat Ali, for works admittedly left incomplete by the Respondent.

d) It is contended that the learned Sole Arbitrator failed to adjudicate the disputes in accordance with the terms of the Contract and disregarded the established usage of trade applicable to the transaction. Consequently, the learned Sole Arbitrator is alleged to have failed to adhere to the contractual terms and conditions as well as the applicable principles of substantive law, thereby rendering the Impugned Award contrary to the public policy of India.

e) It is further contended that the learned Sole Arbitrator failed to give effect to the contractual provision relating to damages for non-completion of the works, despite the admitted position that the Respondent had not completed the works in all respects. It is submitted that the Petitioner had suffered losses on account of the Respondent's negligence and failure to complete the works entrusted to it. It is further contended that the Respondent's non-compliance exposed the Petitioner to the risk of proceedings in relation to procurement of the completion certificate from the competent authority, particularly in view of the letter dated 24.09.2013 bearing No. 1809/APD-16/138.

f) It is contended that the Impugned Award is contrary to the public policy of India as the learned Sole Arbitrator deliberately disregarded the rate differential amounting to more than Rs.1,00,00,000/-, based upon the rates quoted by the U.P. Awas & Vikas Parishad for construction of civil projects. It is further contended that the learned Sole Arbitrator erroneously concluded that the joint measurement of defects in the individual flats covered the flats in their entirety and that the value of the remaining work was only approximately Rs.1,00,000/-. According to the Petitioner, the joint measurement revealed that nearly 50% of the flats remained closed and were therefore not measured. It is alleged that the measurements undertaken were the result of collusion between the Architect and the Respondent.

g) It is stated that the learned Sole Arbitrator neglected to decide the issue whether the Petitioner is entitled to Rs.50,00,000/- for the alleged delay in execution of the work, and till date the architect has not given the completion report of the project nor any document submitted before the learned Sole Arbitrator and as per the Supplementary Agreement, it provided for the measurement of works done by the Respondent or after completion of the project and the Respondent neither completed the project nor appeared for measurement of works done.

h) It is contended that the learned Sole Arbitrator failed to obtain expert opinion by appointing an expert as contemplated under Section 26 of the Act. It is further alleged that the learned Sole Arbitrator failed to comply with the statutory mandate contained in Section 18 of the Act and consequently rendered the Impugned Award in violation of Section 31(3) of the Act.

4. *Per contra*, the learned Counsel for the Respondent has argued as under:

a) It is contended that the delay in completion of the works was attributable, inter alia, to delays on the part of the Petitioner in handing over the site, repeated modifications to the site drawings and the execution of additional works, all of which prolonged the completion period. It is further submitted that internal disputes within the Petitioner-Society resulted in financial constraints and delayed payments to the Respondent, thereby constituting breaches of the

Contract and further delaying completion of the works, besides causing losses to the Respondent.

b) It is submitted that the Petitioner has failed to establish any of the grounds contemplated under Section 34 of the Act for setting aside the Impugned Award. Reliance has been placed upon the judgment of this Court in NTPC Ltd. v. Larsen & Toubro, **2024 SCC OnLine Del 126**.

c) It is further submitted that the contentions advanced by the Petitioner do not fall within the recognised ground of violation of the public policy of India. According to the Respondent, the Petitioner's challenge essentially concerns the alleged differential between the rates quoted by the Respondent and those quoted by the U.P. Awas & Vikas Parishad, which cannot constitute a ground for interference under Section 34 of the Act. Reliance has been placed upon the judgment of the Apex Court in Delhi Airport Metro Express Pvt. Ltd. v. Delhi Metro Rail Corporation Ltd., **2021 SCC OnLine SC 695**.

5. Heard the learned Counsels for the parties and perused the material on record.

6. Before dealing with the merits of the case, this Court deems it fit to recall the contours within which an application under Section 34 of the Act can be adjudicated upon, with specific emphasis on the parameter of challenge based on violation of 'public policy'.

7. It is trite law that a challenge to the arbitral award can only be on the grounds provided under Section 34 of the Act. The award should not be interfered with until the conclusion arrived at is perverse. Proceedings under Section 34 of the Arbitration Act cannot be equated with appellate

jurisdiction and the court cannot reappreciate evidence. Accordingly, interference by the court is limited to the grounds specified under the Arbitration Act, including violation of public policy, fundamental principles of Indian law or patent illegality going to the root of the matter. Mere errors of law or reassessment of evidence do not justify setting aside an arbitral award. Reference is made of the Judgment of the Apex Court in MMTC Ltd. v. Vedanta Ltd., (**2019) 4 SCC 163**, wherein the following observations were made:

> "***11.*** *As far as Section 34 is concerned, the position is well-settled by now that the Court does not sit in appeal over the arbitral award and may interfere on merits on the limited ground provided under Section 34(2)(b)(ii) i.e. if the award is against the public policy of India. As per the legal position clarified through decisions of this Court prior to the amendments to the 1996 Act in 2015, a violation of Indian public policy, in turn, includes a violation of the fundamental policy of Indian law, a violation of the interest of India, conflict with justice or morality, and the existence of patent illegality in the arbitral award. Additionally, the concept of the "fundamental policy of Indian law" would cover compliance with statutes and judicial precedents, adopting a judicial approach, compliance with the principles of natural justice, and Wednesbury [Associated Provincial Picture Houses Ltd. v. Wednesbury Corpn., (1948) 1 KB 223 (CA)] reasonableness. Furthermore, "patent illegality" itself has been held to mean contravention of the substantive law of India, contravention of the 1996 Act, and contravention of the terms of the contract.*
>
> ***12.*** *It is only if one of these conditions is met that the Court may interfere with an arbitral award in terms of Section 34(2)(b)(ii), but such interference does not entail a review of the merits of the dispute, and is limited to situations where the findings of the arbitrator are arbitrary, capricious or*

perverse, or when the conscience of the Court is shocked, or when the illegality is not trivial but goes to the root of the matter. An arbitral award may not be interfered with if the view taken by the arbitrator is a possible view based on facts. (See Associate Builders v. DDA [Associate Builders v. DDA, (2015) 3 SCC 49 : (2015) 2 SCC (Civ) 204] . Also see ONGC Ltd. v. Saw Pipes Ltd. [ONGC Ltd. v. Saw Pipes Ltd., (2003) 5 SCC 705] ; Hindustan Zinc Ltd. v. Friends Coal Carbonisation [Hindustan Zinc Ltd. v. Friends Coal Carbonisation, (2006) 4 SCC 445] ; and McDermott International Inc. v. Burn Standard Co. Ltd. [McDermott International Inc. v. Burn Standard Co. Ltd., (2006) 11 SCC 181])

13. *It is relevant to note that after the 2015 Amendment to Section 34, the above position stands somewhat modified. Pursuant to the insertion of Explanation 1 to Section 34(2), the scope of contravention of Indian public policy has been modified to the extent that it now means fraud or corruption in the making of the award, violation of Section 75 or Section 81 of the Act, contravention of the fundamental policy of Indian law, and conflict with the most basic notions of justice or morality. Additionally, sub-section (2-A) has been inserted in Section 34, which provides that in case of domestic arbitrations, violation of Indian public policy also includes patent illegality appearing on the face of the award. The proviso to the same states that an award shall not be set aside merely on the ground of an erroneous application of the law or by reappreciation of evidence.*

14. *As far as interference with an order made under Section 34, as per Section 37, is concerned, it cannot be disputed that such interference under Section 37 cannot travel beyond the restrictions laid down under Section 34. In other words, the court cannot undertake an independent assessment of the merits of the award, and must only ascertain that the exercise of power by the court under Section 34 has not exceeded the scope of the provision. Thus, it is evident that in case an arbitral award has been confirmed by the court under Section*

34 and by the court in an appeal under Section 37, this Court must be extremely cautious and slow to disturb such concurrent findings."

8. Reference is also made to a judgment rendered by a three-Judge Bench of the Apex Court in OPG Power Generation (P) Ltd. v. Enexio Power Cooling Solutions (India) (P) Ltd., **(2025) 2 SCC 417,** wherein the following discussion regarding how the term 'public policy' is to be construed is pertinent:

> *"**Relevant legal principles governing a challenge to an arbitral award***
>
> ***30.** Before we delve into the issue/sub-issues culled out above, it would be useful to have a look at the relevant legal principles governing a challenge to an arbitral award. Recourse to a court against an arbitral award may be made through an application for setting aside such award in accordance with sub-sections (2), (2-A) and (3) of Section 34 of the 1996 Act. Sub-section (2) of Section 34 has two clauses, (a) and (b). Clause (a) has five sub-clauses which are not relevant to the issues raised before us. Insofar as clause (b) is concerned, it has two sub-clauses, namely, (i) and (ii). Sub-clause (i) of clause (b) is not relevant to the controversy in hand. Sub-clause (ii) of clause (b) provides that if the Court finds that the arbitral award is in conflict with the public policy of India, it may set aside the award.*
>
> ***Public policy***
>
> ***31.** "Public policy" is a concept not statutorily defined, though it has been used in statutes, rules, notification, etc. since long, and is also a part of common law. Section 23 of the Contract Act, 1872 uses the expression by stating that the consideration or object of an agreement is lawful, unless, inter alia, opposed to*

public policy. That is, a contract which is opposed to public policy is void.

35. *In Renusagar Power Co. Ltd. v. General Electric Co., 1994Supp (1) SCC 644, a three-Judge Bench of this Court observed that the doctrine of public policy is somewhat open—textured and flexible. By citing earlier decisions, it was observed that there are two conflicting positions which are referred to as the "narrow view" and the "broad view". According to the narrow view, courts cannot create new heads of public policy whereas the broad view countenances judicial law making in these areas. In the field of private international law, it was pointed out, courts refuse to apply a rule of foreign law or recognise a foreign judgment or a foreign arbitral award if it is found that the same is contrary to the public policy of the country in which it is sought to be invoked or enforced. However, it was clarified, a distinction is to be drawn while applying the rule of public policy between a matter governed by domestic law and a matter involving conflict of laws. It was observed that the application of the doctrine of public policy in the field of conflict of laws is more limited than that in the domestic law and the courts are slower to invoke public policy in cases involving a foreign element than when a purely municipal legal issue is involved. It was held that contravention of law alone will not attract the bar of public policy, and something more than contravention of law is required.*

37. *What is clear from above is that for an award to be against public policy of India a mere infraction of the municipal laws of India is not enough. There must be, inter alia, infraction of fundamental policy of Indian law including a law meant to serve public interest or public good."*

9. This court also deems it appropriate to refer to the Supplementary Agreement executed between the parties, which is relevant for the proper adjudication of the present dispute and is reproduced hereinbelow:

> "*34. The respondent filed Memorandum of Compromise between the parties dated 25.3.2002. The said Memorandum of Compromise reads as under:-*
>
> ***"Memorandum of Compromise between Jansatta Awas Samiti and M/s. Govind Ram Chaprana & Sons:***
>
> *The measurement of left over works in Jansatta Sahkari Awas Samiti was done by the Engineers of the society and the builder M/s. Govind Ram Chaprana & Sons jointly. As per this measurement, the cost of left over works was estimated (including the sanitary fittings of Rs. 5 lac approximately) to the tune of Rs. 54 lac. In the meeting attended by the Managing Committee of the society and the builder, it was mutually agreed that the left over works (including the development work as per tender specification till 25.3.2002) were to be completed within an agreed and stipulated amount of 36,25,000/-. It was decided that remaining material of sanitary fittings, the bill of which is not submitted by the builder, will be provided by the society. The description of completing left over works and its payment scheduled will be following :-*

Srl.No.	***Block***	***Date of completion of work***	***Date of payment***
1.	*D Block*	*01.4.2004* *14.4.2002*	*01.04.2002* *Rs. 2,00,000/-* *20.04.2002* *Rs. 8,00,000/-*
2.	*E Block*	*08.04.2002* *14.04.2002*	
3.	*B Block*	*23.4.2002*	*05.05.2002*

		25.5.2002	*Rs. 8,00,000/-*
4.	*A' Block*	*20.05.2002* *20.06.2002*	*30.05.2002* *Rs. 4,00,000/-*
5.	*C Block*	*20.06.2002* *05.07.2002*	*07.06.2002 - Rs. 4,00,000/-*
6.	*Development works*	*10.04.2002* *25.04.2002*	*20.06.2002 - Rs. 8,00,000/-*
7.	*Water tank and Other woks*	*20.05.2002* *01.06.2002*	*12.07.2002 - Rs. 5,00,000/-*

Rs. 6,50,000/- have been further included in the above mentioned payment schedule of Rs. 36,25,000/- as per the claim of the builder, this amount is to be paid to him on account of previous works done by him, the payment of which was not made to him. But the final decision about the payment of this previous due payment will be done after the measurement works of civil construction till March 25, 2002 is being completed.

Both the parties agree:

1. *The measurement work will be completed by 28.04.2002.*

2. *After the completion of measurement work, if it is found that the society does not have to pay to the builder the mentioned amount of Rs. 6,50,000/- will not be paid to the builder.*

3. *If after the completion of measurement work, it transpires that the builder has to pay the society the excess amount in that case the society will deduct his amount from the amount to be paid to the builder against the payment of left over works.*

4. *10% (maximum Rs. 3,50,000/-) of the total amount of left over works will be paid only after the all left over work of the society is completed."*

10. Now, this Court shall deal with the rival contentions advanced on behalf of the parties.

11. Having considered the rival submissions and upon a comprehensive examination of the Impugned Award, this Court finds that the challenge raised by the Petitioner essentially seeks a re-appreciation of the evidence and a re-adjudication of the contractual disputes which stood conclusively determined by the learned Sole Arbitrator.

12. The learned Sole Arbitrator, after duly considering the Supplementary Agreement executed between the parties, noted that its execution and terms were not disputed by either party. The learned Sole Arbitrator further recorded that, under the said Agreement, the balance work was required to be completed by 28.04.2002, and that the value of the work remaining to be executed was assessed at approximately Rs.54,00,000/-, which the parties had mutually agreed would be completed for a consideration of Rs.36,25,000/-.

13. The first question which the Arbitral Tribunal considered was whether the claim of the Respondent to recover a sum of Rs.97,38,202/- for the professional work, which is based on the 18th Running Bill of the Respondent/Claimant. The Arbitral Tribunal after considering the material on record came to a conclusion that there is no material to show that the 18th running bill had never been submitted nor such work had been effected. The Arbitral Tribunal found that there was no date on which the said bill had

been sent, and therefore, came to the conclusion that the contention of the Respondent that the 18th running bill was never submitted, was rejected. The Arbitral Tribunal restricted the claim only to Rs.14,25,000/-. The Arbitral Tribunal, thereafter, has referred to a Memorandum of Compromise entered into between the parties which details out the leftover works for which no measurement was taken.

14. Upon considering the aforesaid Supplementary Agreement along with the other material placed on record, the learned Sole Arbitrator rejected the Petitioner's contention that the Respondent/Contractor had been paid amounts in excess of its entitlement. On the contrary, the material on record demonstrated that, against the agreed consideration of Rs.36,25,000/-, the Respondent had received only Rs.22,00,000/- towards the work already executed by it. Accordingly, after accounting for the payments already made and the amount found payable under the Supplementary Agreement, the learned Sole Arbitrator awarded a sum of Rs.14,25,000/- in favour of the Respondent.

15. The Arbitral Tribunal was, therefore, of the opinion that the Claimant cannot seek any other claim as no Measurement Book could have been produced. The Arbitral Tribunal held that though the Petitioner herein did not produce any material, the Claimant has also not given any evidence to support the claim.

16. This Court is in agreement with the view taken by the learned Sole Arbitrator that the Supplementary Agreement constituted a fresh and binding contract between the parties, governing the completion of balance works. The said Agreement superseded the earlier disputes pertaining to the unfinished works and further prescribed a fresh mechanism for payment,

thereby governing the respective rights and obligations of the parties in relation to the balance works.

17. The contention that the learned Sole Arbitrator failed to adjudicate Issue No. 7A, even if assumed to be correct, does not demonstrate any error going to the root of the Award, merely because there was a separate claim against the Architect. In any event, the Award, read as a whole, reflects consideration of the contractual relationship between the parties and the material circumstances relevant to the claims.

18. The Arbitral Tribunal on the basis of the material on record came to a conclusion that no stress has been made by the Petitioner herein that there was delay on the part of the Respondent/Claimant in completing the flats. The material indicates that there was change in the areas of the flats, there was increase in number of the flats and the plans were supplied late and therefore, the entire claim cannot be put on the Respondent herein. The Arbitral Tribunal after considering the material also came to a conclusion that there is nothing to show that the work done was defective in nature. On the issue of collusion between the Respondent and the architect, the Arbitral Tribunal held that the said issue cannot be based on conjectures and surmises. The Arbitral Tribunal held that cross examination of the witness suggests that the architect had suggested that no payment to be made to the contractor, which is an indication that there was no collusion. It is further stated that there is no material on record to authenticate the nature of the deficiencies in the construction. The Arbitral Tribunal held that there is no material to show that certain extra work has to be done from outside because of the deficiencies. It is stated that the person who was to depose regarding the deficiencies of work did not even have any civil engineering experience.

19. Similarly, the Petitioner's contentions regarding the alleged incomplete works, payment made to Mr. Rehmat Ali, measurements of the flats, alleged collusion with the Architect, rate differential, delay and damages essentially invite this Court to reassess the factual and evidentiary findings recorded by the learned Sole Arbitrator. Such an exercise is impermissible in proceedings under Section 34 of the Act, particularly where the view taken by the learned Sole Arbitrator constitutes a plausible view on the material available before him.

20. The Petitioner has also failed to demonstrate that the Impugned Award is in conflict with the fundamental policy of Indian law or the most basic notions of justice or morality, or that the Award suffers from patent illegality appearing on its face and going to the root of the matter. The mere assertion that the learned Sole Arbitrator adopted an erroneous approach, failed to accept certain documents or arrived at a conclusion different from that sought by the Petitioner cannot, by itself, constitute a ground under Section 34 of the Act.

21. A careful and comprehensive perusal of the Impugned Award demonstrates that the learned Sole Arbitrator has examined the pleadings, documentary material, correspondence exchanged between the parties, and the evidence led in support of their respective claims and assertions. The Impugned Award reflects due consideration of the relevant facts and surrounding circumstances germane to the dispute.

22. The Impugned Award reflects a plausible and reasoned interpretation of the Contract. It is well settled that a court exercising limited supervisory jurisdiction under Section 34 of the Act cannot re-appreciate evidence or

substitute its own interpretation of contractual clauses where the view taken by the learned Sole Arbitrator is a possible and reasonable one.

23. Viewed in its entirety, the Impugned Award reflects a reasoned and structured adjudication of the disputes by the learned Sole Arbitrator within the confines of the contractual terms agreed upon by the parties, the material placed on record, and the jurisdiction vested in the learned Sole Arbitrator. The Impugned Award demonstrates due application of mind to the pleadings, evidence, and relevant contractual provisions.

24. In view of the foregoing discussion, this Court is of the considered opinion that the Petitioners have failed to establish any ground under Section 34(2) or Section 34(2A) of the Act warranting interference with the Impugned Award.

25. Accordingly, the present Petition, along with pending Application(s), if any, stands dismissed.

SUBRAMONIUM PRASAD, J

AUGUST 18, 2026
JR